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10TH ANNIVERSARY OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

A REPORT OF CONFERENCE PROCEEDINGS
SPECIAL COMMITTEE ON AGING

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PREFACE

Ten years ago, the Employee Retirement Income Security Act (Public Law 93-406) was passed by Congress. Its express purpose was to protect the pension and welfare benefit rights of workers and their beneficiaries. Nearly a decade had elapsed since the introduction of the first bill to implement a broad-based regulatory treatment of private pension plans at the Federal level. After protracted debate, Congress finally reaffirmed its commitment to private pensions as the principal retirement income supplement to Social Security benefits, and enacted ERISA in an effort to protect the retirement expectations of millions of employees.

The debate did not end with the enactment of ERISA, however. The focal point for the ongoing dispute over the future of the private pension system soon became the President's Commission on Pension Policy. The Commission's recommendations, published in 1981, helped to crystalize the policy debate. They included the adoption of a mandatory universal pension system, a minimum benefit standard, and a portability clearinghouse, each recommendation creating a degree of controversy within the pension community. The issues addressed by the Commission remain with us today, and its recommendations are still recalled in discussions of continuing pension reform.

This year marks the 10th anniversary of the enactment of ERISA. It is therefore an ideal time to assess its strengths as well as its failures. The purpose of the conference, transcribed here, was fourfold: To review the goals of ERISA and evaluate whether additional reforms are necessary to accomplish those goals; to discuss the implications of divergent policies which encourage retirement savings on either employer-sponsored or individual bases; to examine particular suggestions for additional pension reform, and the impact such reforms might have on participants and plan sponsors; and to consider the need for a more unified national retirement income policy.

I am pleased that Senator Jacob Javits, the "father of ERISA," was able to bring to us his unique vision and insight, and thank him for his morning address to the conference. I also would like to thank my colleagues, Senators John Chafee and Bob Packwood, and Congressmen John Erlenborn and J. J. Pickle, for their interest and participation. Finally, I would like to acknowledge the conference's 14 cosponsoring organizations, whose time and support helped make the conference possible.

Congressman John Erlenborn introduced the first session, which is divided into two interrelated debates concerning the appropriate relationship of ERISA to retirement income policy. The first debate topic asked whether it is appropriate for ERISA to be used as a means of insuring a minimum level of retirement income adequacy. Although observers agree that the provisions of ERISA protecting the rights and expectations of pension plan participants are both necessary and useful, efforts to amend ERISA in a manner expressly designed to increase future benefit accruals are subject to vigorous dispute. The second debate considered whether further amendments to ERISA ought to be delayed until Congress has established a unified retirement income policy.

The second session, introduced by Congressman J. J. Pickle, was again divided into two debates which approach the central question—who should be responsible for providing adequate income to meet an employee's retirement needs?—from different perspectives. Recent tax policy has appeared to favor tax incentives encouraging individual savings for retirement rather than employer-sponsored savings. In the first debate, the relative merits of employer-sponsored versus individual savings were discussed. There has also been a significant shift in new pension plan formation away from traditional defined benefit plans toward defined contribution arrangements following the enactment of ERISA. As a result, many employees now have greater personal control over their retirement savings, but the control is offset by increased risk. The second debate examined the strengths and weaknesses of each type of plan, and the consequences of a policy which might favor one to the detriment of the other.

A panel discussion constituted the third session, introduced by Senator John Chafee. Five topics were addressed by the panelists and participating responders: minimum standards for vesting and portability; integration of pension benefits with social security; indexation of benefits to minimize the effects of inflation; relief for "pension losers" through a Federal annuity program; and a summary of long-term legislative issues.

The fourth and final session was a roundtable debate, considering three alternative visions of an appropriate national retirement income policy. This discussion was placed on a continuum of policy coordination, ranging from a defense of the status quo with little explicit unity of policy to an aggregation of retirement-related programs and departments into a centralized agency. Implicit in this discussion were differing views over the relative roles of the perceived "legs" of the "three-legged retirement income stool": Social Security, pensions, and private savings.

Private pensions are an important part of our larger retirement income system. On the 10th anniversary of ERISA's enactment, it is fitting for us to evaluate the challenges remaining; to continue our commitment to the pension promise made to millions of Americans who will one day retire from active employment. The conference participants presented diverse viewpoints on the future of the private pension system. Their comments have helped form a foundation for ongoing debate as ERISA faces a second decade.

JOHN HEINZ, *Chairman.*

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10TH ANNIVERSARY OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. Rother. Ladies and gentlemen, we'd like to begin. My name is John Rother. I am the staff director of the Senate Special Committee on Aging. It is our pleasure to have you here this morning to join with us in celebrating the 10th anniversary of ERISA, helping us assess what has been accomplished, and to look at what can be done in the next decade in pension policy.

We have a very full agenda today, so I must ask your cooperation in helping us to keep things moving. So I will be very brief.

I am honored this morning to introduce the host of this event, the chairman of the Special Committee on Aging, Senator John Heinz. [Applause.]

STATEMENT BY SENATOR JOHN HEINZ

Senator Heinz. Ladies and gentlemen, good morning.

On behalf of the Special Committee on Aging and all of our cosponsors, without whom we could not possibly have organized or presented the day I'd like to welcome you to our conference this morning.

I am especially pleased to welcome my colleagues from both the House and Senate, as well as our distinguished guests from the administration. We have a very impressive list of speakers and participants on the program.

One of the reasons that I was anxious for the Aging Committee to join with our other distinguished cosponsors in holding this conference today is to commemorate the 10th anniversary of the enactment of ERISA, the Employee Retirement Income Security Act of 1974. But more importantly, I and other members of the Special Committee on Aging felt it important to take an objective, dispassionate look at what we would like to see in the future evolution of pension policy.

Our conference today is a unique opportunity to recognize that pensions are but one part of a larger retirement security system, a system that includes Social Security, personal savings, asset income, and in some cases, earnings from continued employment—a system which, because of ERISA, showcases private pensions.

So, today we hope to take a look at the future of a constantly evolving pension policy in this country and ask about the choices we can and will face during the coming decade.

I think we all start by recognizing that today more than 5 out of every 10 workers—nearly 50 million individuals—are employed in a company that has an ERISA-regulated retirement plan. There are now over 820,000 employer plans in the United States, with assets approaching $1 trillion. In addition, approximately 154 million workers have established IRA's, with 1.7 million also opening IRA's for their nonworking spouses. The size of all those figures underscores the importance of private retirement arrangements to our total income security system.

But it seems to me, as one observer of this system, that ERISA is a long, long way from fulfilling its full potential. The notion of dependable pensions for employees—which is what ERISA was designed to encourage and protect—is, quite frankly, quite far from being realized. Given current law, even with the recent passage of the Retirement Equity Act of 1984, large segments of the work force are unlikely ever to vest in a pension benefit. Certain types of employment, particularly in the service and retail segments of our economy, have historically offered far less employer-sponsored retirement coverage.

More broadly still, Federal regulation could be more efficient; plan investments could be more productive. Sometimes the workers themselves act contrary to their own long-term interests, spending distributions from employer plans meant for retirement.

If there is one overall self-criticism that I would make it is that we, here on the Hill, and in this town, have not consistently integrated our consideration of private pensions with Federal, social, employment, and tax policy. And I don't say that to be critical. Indeed, when ERISA was first enacted 10 years ago, the issues before Congress were primarily those of fairness and the security of promised pension benefits. But today, we face a very different environment, even though our fundamental concerns remain the same.

It is only within the past few years that we in Washington have begun to come to grips with the financial and administrative burdens ERISA has wrought on private pension plans. Today, we must necessarily concern ourselves with so-called employer issues of cost control and cost sharing. In the light of astronomical budget deficits, we must also concern ourselves with the impact of ERISA on overall Federal tax policy and tax revenues. But we cannot be blinded by those concerns alone. And above, all, we cannot afford to forget the ideals which have brought us this far—that, when all is said and done, access to adequate and reliable retirement income for all older Americans is our goal.

Now, if you have read the agenda for this conference, you will note that we have four sessions today. It is my hope that at the first of these four sessions, the participants can come to grips with a question that has largely eluded us—the relationship of ERISA plans to overall retirement income policy. And I am pleased to note that the person starting that off will be none other than John Erlenborn, who has had a long and distinguished association with this subject and this issue.

If I may set the stage, I think it is fair to say that most people have assumed that pensions are fundamentally to be regarded only as a supplement to basic Social Security benefits, and that is an assumption that I hope we can fully challenge this morning.

In the second session, we will examine some of the many faces of retirement income—employer-sponsored defined benefit and defined contribution plans, capital accumulation plans, and IRA's.

Some critics of ERISA have argued that the regulatory burden and favorable tax treatment of retirement plans are not equally distributed. If the preceding 10 years of pension policy have taught us anything, it is that every American worker's needs are indeed different. Retirement plans reflect those differences. And it is my hope that in this session, we can evaluate the trend toward defined contribution plans, as well as the rapid growth of IRA's, to determine if this best suits our retirement income goals.

After a break for lunch, we will return for the session which I think is going to be the most practical of the day's offerings, particularly for my colleagues in Congress. It is all too often that the politics of the day mask the deeper substantive issues of pension policy, so we have designed the third session to serve as a panel discussion, not to debate specific bills—we spend enough time doing that—but to explore the concepts underlying the proposals which we will likely see during the next Congress starting in January.

Finally, the fourth and last session this afternoon will bring us full circle to the issue, once again, of a national retirement income policy. I think it is fair to say that to date, national policy on retirement income has been a byproduct of separate and occasionally conflicting employment, tax, and social policies. Though many commentators have discussed the need for a single coherent national retirement policy, as evidenced by the Presidential commission to study that subject, their visions of just what form such a policy should take vary greatly. Some have called for a greater role for Social Security; others, for a mandatory pension system; and still others wish to increase reliance on individual savings for retirement. We have asked five very distinguished individuals with well-defined points of view to stake out and sharpen the points of that debate.

That should be enough for any one conference. It should be a busy day; it should be a full day. And I encourage every single one of you here to participate just as fully as you possibly can and to join in the proceedings whenever and wherever possible.

Before we proceed to the first debate, I would like to introduce a man who, in my personal experience—and I have been privileged to know him for over 20 years—has more than any other American a special responsibility for all of our being here today. His presence lends, if I may say so, an extraordinary and very special distinction to this forum, and it is a great honor that he can be with us.

In 1967, Senator Jacob Javits introduced his very first broad-scaled pension reform bill, S. 1103. At that time, his concern—namely, to guarantee certain minimum standards which all plans had to meet—was a brandnew issue and a brandnew concern. That one bold strike back in 1967 set the tone for the next 7 years of debate, a debate which progressed by fits and starts in both the House and Senate, but which at no time ever lacked for an exceedingly articulate champion. And that articulate champion was none other than the able and caring leadership of one Jack Javits.

It is, I think, appropriate to quote something that Jack said on ERISA's passage, when he offered an admonition to all the rest of us. He said:

> The Congress has made an auspicious beginning with the enactment of the pension reform bill, but there still remains a great deal to do if we are to promote a more satis-

> factory private retirement system—one that will enable every American after his or her productive years, to look forward to a retirement with freedom from anxiety and from economic want.

Jack said that back in 1974. It was true then, it is true now; we still aspire to that goal.

And so it is with great pride and personal pleasure that I introduce to you the man I consider "the father of ERISA," Senator Jacob Javits. [Applause.]

STATEMENT BY SENATOR JACOB K. JAVITS

Senator Javits. Thank you very much, John Heinz, ladies and gentleman, for such a warm reception.

There are few things of which I would rather be a father more than ERISA, and I am delighted to see you all here and to see that you are going to get into the subject very deeply today.

It is a great privilege for me to have seen the growth of private pension plans. And Senator Heinz, my dear old friend, has described to you very accurately a good deal about the legal and legislative issues which are involved.

I would like to speak about social policy, and I would like to speak about it in terms of what the Committee on Aging is supposed to do, bearing in mind that on tomorrow, many of you will probably be present at the pension forum, and Secretary of Labor Raymond Donovan has very kindly made me honorary chairman of that event, and I will be testifying as to what changes need to be made.

So this morning, I'd like to talk about the social policy which is involved and about the interests of retirees and those who are close to retirement, which is the proper province of the committee that Senator Heinz heads in such an able and gracious way.

Now, we hear a lot of debate today about cutting costs and about the deficit and the other problems which we have, keeping government within what it considers proper bounds. But you know and I know that there are certain barriers against which we butt our heads, and those are the requirements of our time and the fact that the most growing part of the population is those who are retirees or prospective retirees, and we want it that way. And so the general idea is the big issue about raising taxes in order to have a relatively solvent government; otherwise, the argument on the other side is that we have to pay what it costs to satisfy these social needs.

Now, there are probably about $50 billion involved in tax expenditures in respect of these retirement plans, and very interestingly, it is the tax committees and tax agencies of the Federal Government which have had most to do with what should be done about retirement income. Now, this is the wrong end of the stick, because what is at stake here—and this, by the way, is a large tax expenditure; we are talking about $200 billion as the universe of tax expenditures—and it is a real social issue because it raises this question. People must have service. Look, for example, at the shambles which has been made of the lack of day care in this country, because America's business, unlike foreign businesses, has failed to assume that responsibility.

In short, we can cut costs, President Reagan, if the American business system, as it is doing in respect of ERISA, shoulders the burdens which should properly be its own. And I hope very much that the debate will concentrate on that issue and that those who are under these plans will be militant politically in that debate and will not allow the tax expenditure argument to militate against and to harm or destroy these plans. This is the right way to go—to restore the balance of financing and expenditure and the responsibilities of American business as an element of cost passed on to the consumer to finance the social needs of the elderly and children, and perhaps many other things which we have not yet brought to fruition.

And in 1967, when I started this ball rolling, it was based upon this social concept which I have just described to you. And one never is able to do these things alone. In the Senate, I had the great aid of a man whose political life had a rather, so far, unhappy ending, Senator Harrison Williams of New Jersey, who was the chairman, as I was the ranking member, of the Labor Committee. And in the House, John Heinz properly mentioned—I gather he is here—Congressman John Erlenborn, and Congressman John Dent of Pennsylvania, who were early adherents to what we were trying to accomplish. And of course all of us owe a great debt to President Gerald Ford, who signed the bill on Labor Day, 1974.

Now, in line with this kind of thinking, there are a few other points that are important. One is that the administration of this whole enterprise urgently needs reorganization, with vested responsibility in one agency rather than by dividing it between the Labor Department and the IRS, essentially, and with the PBGC, the insurance agency as stakeholder.

I might say in that connection that way back in 1971, I introduced legislation seeking to establish a single commission as the administering agency. I think you ought to think about that very seriously.

Second, there remains serious problems of management intrapension plans. The rate of return which they have realized is nearly flat, considering inflation. They haven't been too able about their investiment policy. Indeed, it has been suggested that the Government issue, especially inflation indexed bonds for the purpose of raising that income level. I doubt that that idea will go too far, because it might preempt the biggest pool, as Senator Heinz has reported, of investment capital in this country, which promises to be the overwhelming pool of investment capital, rising by the turn of the century to $2.4 trillion, about the size of the national debt. That requires considerable thought by the pension community.

And in addition to how the Government should regulate what should be the investment policy, we now see an exploitation of the termination features of ERISA by those who would use the overfunding of the plans caused by inflation and by the stock market boom of 1983, in order to siphon off resources which the plan may need in harder days ahead, or which could form the basis for somewhat more equitable treatment in view of costs of living for retirees.

And finally, that raises a fiduciary question, which was one of the biggest things for which those of us who inspired this effort fought. The fiduciary responsibility should not be vitiated by takeover artists, pro or con, or by holders of what is euphemistically called "golden parachutes" in corporate life.

So we have a great effort already showing extraordinary results, in terms, that is, of the beneficiaries. I think we are seeing a material impact on productivity and morale in labor ranks, with almost half the labor force under pensions plans. And we see a fabulous pool of capital which must be utilized with integrity, but with a sense of enterprise, as a great building block for the industrial and general economic growth of this country.

If I am the "father of ERISA," the child is robust, and growing, and as we all know who are parents, the toughest years are the teens, and they are right ahead of us. And it is in your hands.

I would just like to congratulate Senator Heinz and the committee for the enterprise which brought you here today. As you know in our country, there is no power that is greater, greater than any President or Senator or Congressman, than the power of public conviction and public passion. And I hope you engender that for the right things.

Thank you very much. [Applause.]

Senator HEINZ. I have told Jack that I want to make the mistake of saying something about what he just said. He is an impossible person to follow. But everytime I listen to Jack Javits, I say to myself, good Lord, what a great gift is his mind, his intellect, his passion, his feelings, to all of us who have been privileged to serve with him, and to our country, which he still serves with great distinction. I don't know that I would ever hope to hear at any conference, at any convention, comments more fitting and appropriate to this subject matter, on this occasion, than the keynote address we have just received. And, as usual, Jack Javits organized it all in his mind and presented it with his incredible articulateness.

And, Jack, it looks like there are a lot of "teenagers" in this audience here, who want to take you up on all the challenges that you pose to them and us. And may I just, as a long-time admirer and one of your great friends—at least, there is no one I feel better about than you—thank you for what you have done, are doing, and will continue to do for us. We are deeply grateful.

Thank you. [Applause.]

Session 1

WHAT IS THE APPROPRIATE RELATIONSHIP OF ERISA TO RETIREMENT INCOME POLICY?

INTRODUCTION: REPRESENTATIVE JOHN ERLENBORN OF ILLINOIS

MODERATOR: BRUCE SPENCER, EDITOR, EMPLOYEE BENEFIT PLAN REVIEW, CHICAGO, IL

DEBATE TOPIC NO. 1. IS IT APPROPRIATE FOR ERISA TO BE USED AS A MEANS OF INSURING A MINIMUM LEVEL OF RETIREMENT INCOME ADEQUACY

Debaters

Yes: Dr. Thomas C. Woodruff, executive director, Commission on College Retirement, New York, NY.

No: Michael J. Romig, director, Human Resources and Employee Benefits, Chamber of Commerce of the United States, Washington, DC.

Responders

Harry Graham, tax counsel, U.S. Senate Finance Committee, Washington, DC.

Dr. Alicia H. Munnell, senior vice president and director of research, Federal Reserve Bank of Boston, MA.

Dallas L. Salisbury, president, Employee Benefit Research Institute, Washington, DC.

Senator HEINZ. Now, it is my pleasure to introduce the man who will be starting off the very first panel. Jack Javits referred to him; I mentioned him briefly in my opening remarks—none other than Congressman John Erlenborn, who has been a coparent of ERISA.

John, it is nice to see you. I welcome you, and I thank you for your participation. I turn this panel and this discussion over to you. [Applause.]

Representative ERLENBORN. Well, thank you very much, my good friend, John Heinz. As many of you know, John and I served together in the House some years ago, before he made a wrong turn and come over here to the Senate.

Let me also observe that it was a matter of great joy and satisfaction for me to see and to listen to Senator Javits this morning. For about a decade and a half, we met regularly in conference committees on matters having to do with education and labor, and though we did not always agree in our basic political philosophy, I was always extremely impressed with the agility of his mind, the depth of his knowledge, and I can say that I am satisfied after listening to him this morning that he is just as sharp as he ever was.

With this commencement of ERISA's 10th anniversary, I am frequently asked "Was ERISA worth the effort?"

As one of the original authors of the act, I can offer, perhaps, a unique perspective on ERISA and retirement income policy, generally.

Those of us in Congress who studied the issue closely concluded that comprehensive legislation was necessary to ensure broad public support for the continuation of the voluntary nature of the private pension system, and the favorable tax treatment giving the incentive for expansion. To further promote voluntary retirement savings and tax equity, deductions under individual retirement accounts were made available to workers not covered by pension plans.

Notwithstanding some reservations I have had concerning some of the provisions of ERISA, these three considerations—the maintenance of a voluntary system with its capital formation aspects so ably touched upon by Senator Javits; second, the continuation of favorable tax incentives; and the broadening of pension receipt and retirement savings--these three lead me to conclude that, yes, ERISA was worth the effort.

The relevant figures showing America's corporate, union, and individual actions to increase retirement coverage and savings on a voluntary basis bear this out. Pension plan assets have risen from about $250 billion in 1974 to an estimated $1 trillion in 1984; pension participation including multiple plan coverage, from slightly more than 40 million in 1974 to nearly 70 million in 1984; and IRA coverage for uncovered workers from 1.2 million in 1975 to 3.4 million in 1981.

At this stage in ERISA's evolution, we must recognize not only what ERISA did, but also what ERISA did not set out to do. ERISA's reforms were fashioned on a foundation of minimum standards that special House and Senate pension task forces had demonstrated were necessary to protect plans against abuse.

As stated in ERISA's findings and declaration of policy, these minimum standards were designed to protect the Federal taxing power and the interests of participants and beneficiaries in employee benefits plans, by improving the equitable character and financial soundness of such plans.

Contrary to popular misconception, ERISA did not embrace a particular national retirement income policy, defining goals as the extent of pension plan coverage, retirement income levels, or the appropriate relationship of private pensions to Social Security and other public retirement programs. Nowhere in ERISA's declaration of policy can one find a statement that, as a matter of Federal policy, the private pension system ought to be encouraged to grow and strengthen its supplemental role to Social Security. In the development of ERISA, it was taken as a given fact that there was a strong public interest in the equitable operation of the private pension and welfare benefit system then existing, and that a large part of the public interest derived from the special tax treatment afforded such plans. Without an explicit policy as to the expected future role of private pensions, ERISA implicitly left the continued, favored tax treatment of private plans to the discretion of future policymakers, without any guidance as to what kind of future voluntary performance would lead to new incentives, or—more unlikely—further cutbacks in favored tax treatment.

Under the worst case scenario, one which could evolve and should be guarded against, the private pension system post-ERISA would continue to grow only to have its success rewarded by the curtailment of the favored tax treatment aiding such growth.

While ERISA does not provide policy guidelines for addressing these or other major retirement income issues, neither does the act establish any mechanism in the executive or legislative branches for addressing such policy concerns. Now, that's not to say that those of us in the Congress who served as authors of ERISA were not aware of the need for a forum to address future policy concerns. We were. It is just that we were unsuccessful in gaining agreement on actually implementing an appropriate framework. For example, the other edges surrounding such a monumental treatise and took pains to defer effective dates and mandatory termination insurance for multiemployer plans, as well as assign to a joint pension task force the duty to make recommendations for any necessary adjustments in vesting, affordability, termination insurance for small plans, Federal preemption of State law, and other areas requiring attention.

Unfortunately, the jurisdictional jealousies of the congressional committees prevented the establishment of such a task force, and therefore, early on, we lost the opportunity that timely, remedial action could be taken to trim ERISA's rough edges.

Because of these same jurisdictional jealousies, the existing, complex, multiple-agency arrangement was created to administer ERISA. Efforts on the part of Senator Javits and myself to fashion a more workable administrative framework were compromised for the sake of gaining acceptance of the legislation form the four congressional committees involved. The result is that each of ERISA's three administrative agencies has pursued its own individual and distinct policy, leaving ERISA without a consistent policy of its own.

In the words of Bob Monks, the ERISA Administrator: "Public policy is poorly served by the failure to have a mechanism to address the vastly important retirement income issues." I agree.

The challenges to the private pension system and retirement income generally are many. The winds of change which future ERISA captains will have to chart include the graying of America, underfunded public pensions, pension assets in the trillions of dollars, minimum standards for welfare plans, social investing, Social Security intergration, increased taxes and less liberal benefits under Social Security, the Financial Accounting Standards Board and the proposal for booking of benefit liabilities, unisex, labor mobility, vesting, asset ownership and reversions, flexible compensation, multi-billion-dollar IRA and corporate pension tax expenditures, and last but probably the most influential in future policy development—Federal budget deficits.

These and other forces have already begun to raise such questions as: Is the maintenance of the private pension system enough in the national interest to justify the current level of tax deductions and tax exemption of earnings? Or, stated yet another way:

Will the short-term revenue needs kill off the long-term public interest in retirement income security?

The answers to these questions are too vital to be left to ad hoc and closed door solutions. Indeed, there is a need for our country to address retirement issues in a comprehensive fashion.

Frankly, I believe it is time that we give ERISA and the private pension system a boost and a new beginning. The need for a rational retirement income policy and a refocusing of ERISA has been well-documented in congressional hearings and the reports issued by the numerous commission and study groups.

For example, the report issued in 1981 by the President's Commission on Pension Policy calls for a long-term shifting of dependency on pay-as-you-go-financed Federal programs such as Social Security, welfare, and in-kind benefits, to a balanced program of employee pensions, Social Security, and individual effort. While I don't subscribe to all of the approaches recommended by the President's Commission, I believe its basic premise to be sound advice. More recently, the Committee for Economic Development, after a 2-year study, released its comprehensive report advocating a three-tiered approach to retirement income policy based on, first, Social Security, which should provide a basic floor of retirement income upon which an individual can build; second, employer-provided pensions which can be improved and their coverage expanded through a number of tax and regulatory actions; and third, personal savings, which have been greatly neglected and which should and could be greatly improved.

I agree with the conclusions in the Committee on Economic Development report, that a comprehensive, "three-legged stool" approach for strengthening the U.S. retirement system will produce additional savings that can finance increased investment in plant and equipment and, that in this way, pension plans and personal savings will make an increased contribution to the economic growth that is essential to a sound retirement system in the future.

Therefore, given the present development of the private pension system, and the near-universal coverage under Social Security, I propose the installation of a national retirement income policy under ERISA. The first cornerstone of the policy framework would be the adoption of a mechanism both at the executive and the legislative level, designed to set priorities and achieve an appropriate unified balance among competing tax, labor-management and other social policy considerations.

The second foundation stone would be to explicitly adopt the three-legged stool approach as the desirable means of achieving retirement income security goals. Attributes flowing from this policy would be: first, the setting of a realistic target for replacement of preretirement income through the combination of the three sources of retirement income; second, the strengthening of the concept of Social Security integration through simplification, elimination of any actual abuses, and the recognition of the retirement income target in the factors of the revised formula; third, the recognition that employer-sponsored plans, particularly of the defined benefit type, offer the most realistic and suitable means of expanding retirement income in the face of already enacted, rising FICA taxes and less liberal Social Security benefits. A corollary to this principle is that all employers should be encouraged to adopt a retirement plan or an IRA withholding arrangement. And last, the recognition of the importance that the capital accumulations backing the private pension system play in the overall health and growth of the economy.

Once these new ERISA foundation stones are laid, a more cohesive and intensive discussion can take place with respect to retirement income matters in both the legislative and the executive arenas. The result will be an increase in the certainty of and the long-term stability in public policy, which is an increasingly necessary ingredient for the full support of plan sponsors to make significant, long-term financial commitments to employee retirement income security.

The new framework will also encourage choices to be made among competing retirement income priorities only after all the facts are assembled and adequately studied.

As an aside, I would point out that the revised retirement system that the Federal Government will install next year for Federal employees newly covered under Social Security could have major spillover effects for private plans and retirement income policy, generally. The retirement policy debate can be summarized as the need to balance competing goals which will provide adequate yet affordable retirement icome levels for a rapidly maturing population by means of Social Security, employer plans, and individual incentives; encourage the capital formation necessary for sustained national economic growth, and provide equity among various population classes with respect to plan benefits and plan assets.

In conclusion, ERISA set the stage for, but did not spell out, a national retirement income policy. Our national pension system is at a crossroads. The ERISA preamble should be rewritten to include a retirement income policy framework which codifies the three-legged stool approach to meet the challenges in assuring future retirement income security for America's workers and families.

Thank you. [Applause.]

Mr. ROTHER. Thank you. I wonder, now, if the participants in the debates for the first session would come forward, please?

Mr. SPENCER. Good morning. The distinguished panel which we have here this morning includes: Mike Romig, Tom Woodruff, Dallas Salisbury, and Harry Graham, who is representing the Senate Finance Committee this morning. My name is Bruce Spencer, and my job is to hold the coats and not talk too much and keep other people from not talking too much.

Therefore, I will let Tom Woodruff start.

Dr. WOODRUFF. I promise to be a challenge to your task.

I am very pleased to be here as the leadoff. I lost the coin toss just before we came up. I am also pleased to come back here several years after the President's Commission on Pension Policy issued its report, calling for a national retirement income policy in which ERISA and other legislation could rest. And I am pleased to see the renewed interest in Washington for such a policy.

The question this morning in this debate is: Is it appropriate for ERISA to be used as a means of insuring a minimum level of retirement income adequacy? And my position in this is "yes."

The problems that I see—and because of the limitations in time, I'll just be able to highlight these problems—is that while many of ERISA's original framers had hoped that private pensions and employee benefit plans in general could provide this basis of a minimum level of retirement income adequacy, there are many aspects of ERISA that make that very difficult.

For one thing, the framers of ERISA determined that the approaches of uniform fiduciary standards, a per capita premium-based plan termination system, reporting and disclosure requirements and actuarially based funding standards, were enough, or at least adequate, to ensure a minimum level of benefits from the plans that were then in existence. Many had also hoped—though it wasn't explicitly stated in ERISA—that as private pension coverage increased, more and more people would receive benefits from private pension plans.

In addition, early drafts of ERISA extended many of its provisions to public pension plans, as Congressman Erlenborn referred to earlier. In 1978, the House Pension Task Force study released an exhaustive review of these plans and suggested Federal legislation. However, in spite of numerous efforts to extend many of ERISA's provisions to public plans, opposition from State and local groups have retarded these efforts.

I have to agree with the speakers who will no doubt praise ERISA here today, that ERISA in many respects has been a big success. However, a number of flaws in such provisions as its plan termination insurance system have emerged in recent years that call for much-needed reform.

The first problem that I would like to address is the issue of employers in some industries discovering that they could reduce their financial obligations by either withdrawing from their plans or causing their plans to terminate. These incentives to terminate have arisen in two areas. One emerged during the recent recession. For the first time since ERISA's passage, medium-sized companies sponsoring mature pension plans with large unfunded liabilities met with financial hardship. Some companies voluntarily terminated these plans to aid in economic reorganization, and others terminated their plans outright.

Recently, a second problem has emerged. High investment yields in equity markets and high interest rates in fixed-interest investments have created a situation where some pension plans are technically ahead of their funding schedules. Under the current rules for plan termination, so-called excess assets are created since benefit commitments are reduced. So far, companies have sought terminations that would freeze these benefits for retirees and workers at current levels and would permit companies to recover over $1 billion in funds from employee pension plans. Thus far, the right of companies to freeze benefits and recover pension assets has not been effectively challenged by either congressional or regulatory action.

The optimism of ERISA's framers that employer-based pensions would expand dramatically following reform has not been fulfilled. Pension coverage in the private sector has remained essentially stagnant as a percentage of the labor force since the early 1960's. Part of this stagnation can be attributed to the dramatic expansion of the labor force due to the introduction of the baby-boom generation. A larger, and perhaps permanent factor is the restructuring of the economy itself. Those industries that had pension plans due to unionization or other historical reasons are a declining portion of the Nation's economy. Preliminary finding from the 1983 current population survey indicate that the proportion of the labor force covered by pension plans has actually declined since 1979. The primary reason for this is that coverage is dramatically down for white male blue-collar workers in basic industry. On the other hand, vesting or entitlement to benefits for those covered by plans has increased since 1979, largely due to the reforms instituted in ERISA and also due to the aging of the labor force itself.

Another possible explanation for the lack of employer plan coverage is the fact that ERISA and subsequent tax policy have encouraged the growth of individual, rather than group, pension efforts. ERISA introduced the IRA for those not covered by tax-qualified pension plans. This was extended later, in 1981, for those in plans. Utilization figures have shown consistently that this program is used at much higher rates by high-income individuals. Due to the modest penalties for early withdrawal, IRA's are increasingly seen as convenient tax shelters for the wealthy, rather than as retirement plans.

Similarly, the growth of salary reduction plans may further erode the desire of employers to establish or improve tax-qualified plans supported by employer contribution.

What should be done, and how can I honestly answer "yes" to the question in this debate?

First, I think there are some fairly easy, though somewhat painful, housekeeping chores that could be taken to move ERISA much further along into a consistent framework of retirement income policy. One would be to extend at least the reporting and disclosure, fiduciary standards, and enforcement provisions of ERISA to public pension plans.

Second, to reform the termination insurance system. It is time now, as every couple of years we see premiums go up, to seriously consider a risk or exposure-related premium, to reintroduce some degree of equity into the insurance system. In addition, we need to redefine the term "excess assets" upon termination of a plan by including adjustments for inflation or wage increases in the definition of accrued benefits under those conditions.

Third, another set of reforms that we need to undertake in ERISA in order to achieve this goal is what I call structural reform. First is to seriously consider the approach now being considered by Senator Kennedy and Vice Presidential candidate Ferraro, called the VIP approach: Vesting, integration, and portability. Earlier vesting is an issue whose time has come. Some form of portability network or portability clearing-house is needed. I personally do not favor the idea that I believe is being considered to just provide rollovers to IRA's. I personally favor a more centralized clearinghouse. But even a rollover to IRA's is a step in the right direction. And certainly, it is time to simplify and make more equitable the integration rules under ERISA.

One major addition to that approach that I believe is essential in order to make it a useful exercise, is to establish for the first time minimum benefit standards in ERISA. There are a number of ways of doing this. One approach, which was used by the President's Commission on Pension Policy in 1981, is to call for minimum accrual rates even in defined benefit plans, so that rollovers in the early years would have some value to them. The approach taken by the President's commission was a 3-percent minimum standard; perhaps something a bit above that would be called for.

Fourth a major departure for ERISA whose time I think has come is to seriously consider the implementation of some kind of minimum universal pension system. I believe that all of the steps that I have mentioned so far could be taken on a voluntary basis. But I would call for a 5-year trigger in such legislation, with thorough study and review, so that by the early 1990's, if the voluntary approach with the restructuring of the program and the incentives were not in effect, the mandatory minimum standards system would be in place.

Finally, whether it is done on a mandatory or voluntary basis, it is time to change the tax incentives under the current system. It is very clear, if you look at the utilization rates for voluntary programs under ERISA in the Tax Code, that people respond to economic incentives. Even if they have cash, if they are given more incentives, they will participate more. So I believe that it is time to change from a tax deduction approach to a tax credit approach, to encourage low and moderate income individuals to participate on a voluntary basis. In addition, one of the issues which I do not have time to get into is the structural problems with the economy that will always impede employers from establishing voluntary pension plans. One step toward the direction of encouraging small- and medium-sized companies to establish plans on a voluntary basis would also be to change their tax incentives; give them tax credits rather than tax deductions, to encourage the voluntary establishment in small companies.

As ERISA enters its teens, it seems appropriate that these kinds of structural reforms be considered by Congress, and that Congress rethink its earlier rejection of some form of minimum benefit standards and some form of minimum universal pension system, so that ERISA would be truly a supplement to Social Security for all people, not just a supplement for certain people. The failure to meet the retirement income needs of moderate-income individuals and couples through funded private pension plans in the future is only likely to lead to either a highly unequal postretirement income distribution or to excessive demands on the Social Security system as the baby boom enters retirement in the next century.

Thank you. [Applause.]

Mr. **Spencer**. Thank you, Dr. Woodruff.

Mike Romig.

Mr. **Romig**. Thank you very much.

Since my job is to take the opposite of what most of you are here to do, I feel like a treed fox. I can wait for the hunters to come put me out of my misery, or I can leap into the pack of hounds, hoping that I might persuade enough to gain my freedom.

I don't need to remind you that we are observing the 10th anniversary of one of the more far-reaching pieces of legislation, ERISA. But some of you may not remember some of the things that were going on and that were being said at the time. One of my senior associates at that time was widely quoted for saying, "Never have so few done so much with so little understanding of the far-reaching implications of what they have done." Interestingly, he was right, but for the wrong reasons.

We didn't have the revolution; we didn't have our Dunkirk, in which the employee benefits plans were strewn across the beaches like those soldiers who vacated the beaches of southern France fearing an imminent invasion of Great Britain. In other words, we were looking for ERISA II, and it never came; just as the Axis powers never came to Great Britain.

Why?

Wells, we saw some hints in the remarks of Senator Javits and Representative Erlenborn, who are the founders of the program.

One of the reasons that is interesting and surprising about ERISA has been the acceptance of the business community. ERISA went through an early period where it was every ridiculous idea since Adam. But that was short lived, as employers came to realize that ERISA and its rules were not that difficult and were far more preferable to some of the suggestions that lay ahead, particularly mandatory universal pension programs.

Another surprise, and one that many of us are taking great credit for—I am not certain why—has been the phenomenal success of ERISA. Now, I disagree with some of the comments and figures that Tom has indicated on just what has transpired in terms of coverage, but I'll leave that to some of the other speakers this morning. As far as I am concerned, the pre-ERISA abuses that were so well documented in the media no longer exists. There are no more Studebakers, there are no more firings at age 64 and 11 months; they are all gone. Participation rates are up and were up before even the latest enactment, the Retirement Equity Act. Vesting rates are up, too. The funded status of plans despite the hardships claimed by the PBGC is up, and substantially so. Pension retirees are up. So, too, are the size of the pension benefits that are paid.

The wonder of it all is that for a statute that did nothing for the business community, look what we have created in terms of private pension plans. This, to me, is the miracle of ERISA. Look at the scope of protection. Look at the variety of plans available to meet the needs. In our society, no one has the same needs, and yet plans are there, trying their best to meet these diverse needs. The beauty of ERISA is the flexibility it allows plans to meet the varying circumstances of those ERISA set out to protect.

Despite this success, there are many people with tremendous agendas for the future. That is what this conference is all about. The $64 question is: What is the new agenda around which we might rally? I submit to you that there should be no new ERISA agenda.

Senator Javits indicated that he hoped the conference would agree upon one. Congressman Erlenborn made his own suggestions.

There are many competing agendas. At one time, there was MUPS, an idea whose time had passed, largely because the gaps in coverage that it attempted to fill were structurally impossible of being filled.

There is PEPRA, a concept that says we must do something to protect those in public sector plans. But the reality of PEPRA is that it must proceed through a Congress which is elected from 435 congressional districts in 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands, and all of them have a vested interest in not having those plans changed and subject to ERISA.

There is portability, a concept that was around prior to ERISA and still continues today; a concept that in my opinion reflects a very shallow understanding of what portability really calls for.

Then there are pension COLA's, the indexing of pension COLA's. Despite the new longevity rates, low inflation and full Social Security COLA's have put a damper on the need for a pension COLA. But here I have some reservations. If we are successful at reducing entitlement costs, and if we do it, as is beginning to become more politically acceptable, through constraints on Social Security COLA's, then must we fashion a private safety net in the COLA arena? I suggest that if high inflation returns, the pressure to reduce the public COLA's will intensify, as will pressure to come up with a program for private sector indexing.

Another suggestion for a new agenda and one that I am also interested in, is the coordination of retirement policy. If I were to advocate a new agenda, this would be my personal choice. But with so many parochial interests and pursuits by so many public agencies and so few public figures positioned to push effectively, this is a tremendous long shot.

One area that I am particularly concerned about, and I suspect I'll see it again today, is the absence of any discussion of health care in terms of retirement policies. Health care is and will be a very significant aspect of the retirement income needs of older persons, and is probably our most intense problem.

There are title IV problems—the pension losers, single-employer bill, and MEPA withdrawal liability. The difficulty here, of course, is that the 1980 amendments enacting MEPA poisoned the well. And we just can't go back and dip into that well again until the water clears. And it is going to be some time before we can do so.

Someone mentioned reversions—an emotionally appealing issue, but really, lacking in a rational policy basis for making these changes. If we really want to continue to create a strong defined benefit program, we must recognize that the risk-taker in a defined benefit plan, the employer, must have a reward for that risk.

ERISA-fying welfare plans. An extremely interesting issue. With health care costs rising, what happens when employers drop their plans? Is this our Studebaker of the eighties? Perhaps so. I am certain we will see more of that.

Vesting standards. One of our Vice Presidential candidates has listed this as one of our priorities for the next 4 years. This is supposedly the Retirement Equity Act II, a highly politicized proposal, seeking new minimum standards. But the problem with the new minimum standards situation is that it is constricting the freedom that created the very tremendous system that we now have. There are also IRA's galore, if I can pick up on that, a very popular idea by which personal savings can be encouraged through tax incentives to meet all needs. The difficulty, as Tom and others have pointed out, is that IRA's cannot do for everyone what they do for some.

Finally, there is the mission of tax policy itself. I am not one of those who goes around saying, like Chicken Little, "The sky is falling, the sky is falling." Yes, the tax committees have had a significant role in creating complexity for our lives in the benefits community for the last years. But I challenge anyone to say that any one feature of the tax changes has been the proverbial stake in the heart for the employee benefits system. It hasn't been, but the number of tax changes in recent years has put a fear into our hearts that the stake is coming. As Representative Erlenborn said, we must be certain that tax policies fully understand the importance of this private safety net that ERISA gave birth to, if you will.

When you look at what is ahead, the problem with so many of the proposed solutions for the expansion of ERISA is that they fail to recognize that ERISA's role is one of protection, not prescription. It protects what we have, not prescribes what we should have; and that has been its success. People have come to depend on their employee benefits. They expect their Government to act to protect those expectations, not add to their expectations.

Finally, let me say that if we are going to have a new agenda for ERISA in terms of adding to the retirement security or income adequacy, let us recognize the success of both ERISA and the Retirement Equity Act. They really didn't change the real world very much. The majority of plans had already come to realize that this was the course of action to pursue, and they are already doing so. Thus, the changes that were enacted only affected those who had not yet come to that realization.

Thank you. [Applause.]

Mr. **Spencer**. Thank you, Mr. Romig. We now have the opportunity for the panel members here—Alicia Munnell is going to be the lord high substitute for Dallas Salisbury until he gets back. You have no idea what it is like to sit up here and see one of your panel members suddenly leave, with no explanation whatsoever.

At any rate, in the next 5 or 7 minutes, what we are going to do is to spend a few minutes letting the people on this side of the table direct questions to people on this side of the table, and hopefully, stimulate some kind of dialog among all of them.

I'd like to just spend 1 minute summarizing basically where I think the two people over here stand: almost exactly opposite. On the one hand, we have Tom Woodruff, who gave us a shopping list of reforms that should be thought about for ERISA, and also suggesting certain other reforms that need to be thought of with respect to the entire retirement income policy.

And then Mike Romig in effect rejected most of these reforms and said that if you want to think about possible Studebaker cases for the 1980's, maybe health care is the one that you should be looking at.

I'd like to now give the people on this side a chance to ask their questions, and since you have been here longer, Mr. Graham, I'll give you a chance.

Mr. Graham. I think that the audience is getting a very good flavor of what happens to the various committees of Congress when they are considering pension legislation, because these are the kinds of dichotomies that you get.

Let me directly my first question at Mike, who spoke of the private pension system as a safety net. My question concerns the sources from which people receive their retirement income. I'm sure most of you have heard the analogy used of the "three-legged stool," that is, most people expect to receive their retirement income from three principal sources. One is an employer retirement plan that receives favorable tax deductions and tax incentives with respect to the employee. The second would be Social Security, and the third would be individual retirement savings put aside by the individual during his or her working career.

What I would like to ask Mike is how he sees the interaction of those three retirement income sources. Under our current system, the first dollar of retirement income comes out of Social Security, and that occurs through Social Security integration. Next, you have the employer-provided income, and then you have the individual's own savings that they have put in.

My question for Mike is: Exactly how do you see those three retirement income sources functioning? What should be their relationship, especially considering the fact that both Social Security and private pension plans, to the extent we give tax incentives, are costing the Federal Government?

Mr. ROMIG. Basically, what I visualize in the future is a somewhat declining role for Social Security, declining largely as a result of the 1977 amendments, not the 1983 amendments, in which the benfit formulas were recalculated to set the promise of Social Security at a lower tier than had occurred as a result of the 1972 amendments.

As a result, because the tax laws are designed to encourage complementary private pension systems, there ought to be an automatic increase in the role of private pensions—and there will be, to the extent that those tax policies are not changed.

The other feature of retirement policy, which I might add with ERISA, is the IRA. I see IRA's continuing to grow, largely because they are publicly popular. Like personal savings, they easily understand an IRA plan.

But I truly believe that Social Security will continue to be the foundation for our retirement income in the next two to five decades; that private pensions will soon come to match Social Security for many of those who will be in retirement, and that for some, IRA's and personal savings will also become a more significant source of retirement income.

All this assumes, of course, that current tax policies will not be changed in any sharp way.

Mr. SPENCER. Tom, do you want to comment on that?

Dr. WOODRUFF. Yes. I think oddly enough, Mike and I have a similar view of what will occur under current policy. The point is, I think, that we disagree on whether that is good or not.

I also see that under current policy, the role of private pensions, meaning the amount of annual benefits paid by private pensions, will increase. The problem that I have with it is the distribution of those benefits; that as individualized, voluntary incentives take over the fill and the gaps in employer-provided coverage of the current system, I see the postretirement income distribution becoming more and more unequal as Social Security retreats and individual incentives supplementing private pensions take the forefront. That is why I suggested, absent a change in policy, either such will be the case or we will see as the baby-boom generation reaches retirement age increasing demands on Social Security to reverse the earlier decisions in terms of replacement rates and cutting back of benefits.

Mr. SPENCER. Would you like to ask a question, Dr. Munnell?

Dr. MUNNELL. Yes. I just have to make a factual correction. The 1977 Social Security Amendments didn't really reduce benefits. Rather, they corrected a flaw in the indexing mechanism, and as a result, stabilized replacement rates over the long run, so that the typical individual is going to have the same percentage of their preretirement earnings replaced in the future as they are now.

I would like to address a question to Tom. I am very sympathetic to the fact that only half the work force is covered by private pension plans, and I would also like to see more savings done through organized savings programs. If we should ever get to the point, though, where we were willing to legislate an expansion of organized saving, why wouldn't it be preferable to do it through Social Security, rather than through a MUPPS-type mechanism?

Dr. WOODRUFF. Well, there are several issues that are all somewhat debateable. The President's Commission decided that, for both political reasons and some potential economic reasons, it would be better not to have the baby-boom generation—and it is largely because of the existence of the baby-boom generation, I guess, that I am saying this—be dependent on a pay-as-you-go income transfer program; that it would be better politically to have the money dedicated in advance for those payments. Then the question becomes, if you believe that, where should those funds be placed. It is possible—and in fact the 1983 amendments did that—you could advance-fund Social Security beyond the levels even that are envisioned currently. The other approach would be to hold Social Security where it is now, and do that on a decentralized basis through a tier of employer-trusteed-controlled pension funds. And that latter approach was the approach that my Commission took, and I think I personally favor that, as well; part of the reason is political, part of it a sense that you need more funding, and it would be better not to do it through the Social Security system.

Mr. SPENCER. Mike?

Mr. ROMIG. Just one comment. I think Alicia is right in characterizing the change in 1977 as a change in the benefit formula. I thought I had stated it that way. But if she wants to describe it as not a benefit reduction, then I would suggest she is the perfect candidate to answer to all those people who have reached 65 recently and are complaining about this thing called a notch problem that has reduced their benefits.

Mr. SPENCER. OK. In the interest of time, I am going to try to get each of you to simply make a very, very short statement as to rebuttal.

Tom, you wanted to get a chance to refute what Mike said, I'll give you about a minute—how's that?

Dr. **Woodruff**. Now that I am safely out of Washington and am not on any hit list of the Chamber, I can be free to say this——

[Laughter.]

Mr. **Romig**. This, too, shall pass.

Dr. **Woodruff**. In any case, I believe that we are at a crossroads after 10 years with ERISA; that some fundamental decisions made either explicitly or implicitly in ERISA need to be addressed. One of these is, does further reform of a totally voluntary system make any sense; will it lead to more benefits, more equitable benefits, and more coverage?

The second question is, do we really need, whether it is a voluntary or a mandatory system, to restructure the tax incentives so that the participation in the system can be more equitably distributed on the voluntary side and then be more equitable, even if there is a mandatory tier?

Mr. **Spencer**. Mike, did you have a brief comment?

Mr. **Romig**. Yes, just one brief comment. One, ERISA has functioned well in providing the protections that we sought in 1974. It didn't offer the employer community anything that they didn't already have. Yet, private pensions are flourishing, primarily because the Government offers favorable tax incentives. If we drastically changed those tax incentives, then we are about to kill this golden goose.

Mr. **Spencer**. Harry, I have about 1 minute for you.

Mr. **Graham**. I'm not sure whether to ask questions or just let those two jowl.

I really am not going to turn this debate into a debate over whether or not the changes that have been recently enacted in ERISA are going to kill the golden goose. All that is a perceptual problem; what is an adequate retirement income? Some people want an annual retirement benefit of $136,000. There are some who would say $136,000 annually is fairly rich with respect to a retirement incentive, and that is just from the private pension plan; that does not take into account other individual retirement income savings, and so forth.

So I won't discuss those. But I guess the question I have for Tom is as follows: You are definitely in favor of using the Tax Code as an incentive for employers to put away sums of money for the retirement income of employees; and indeed, you would turn the current tax deduction into a tax credit, which ovbiously is worth more than a tax deduction. Historically, it is a debatable question whether or not the Tax Code is a proper incentive for this type of business conduct, simply because once you throw out a tax incentive, you get the tax incentive benefit regardless of the end product.

For instance, people use the analogy that a lot of employees are currently covered under a private pension plan, and I am not sure that coverage is really the test, because if you are covered under a plan, and then when you do reach 65 or 70 or whenever you retire, and you don't get a benefit from the plan, I'm not sure that coverage really meant anything to you.

Mr. **Spencer**. OK. Tom, can you deal with that very, very quickly?

Dr. **Woodruff.** Yes; on the last point, I agree, and that is why I suggested perhaps the approach of the VIP, that Ferraro and Kennedy are talking about, may help in that direction.

On just the general issue of tax incentives, basically all I was saying is that if you do want to support the concept of a voluntary system and really try it out to see if it works, why not equalize the incentives for people at different income groups, and then see if, in fact, your coverage increases. If it does, if it is equally distributed, and the labor force tends to participate, then maybe measures like mandatory pension layers are not necessary. But we haven't tested that. We have only tested a system that gives much more significant incentives to high-income individuals to participate.

Dr. **Munnell.** I have been asked to make a brief statement rather than ask a question, which I am always more comfortable doing anyway.

Jumping ahead a little bit to the next panel, I don't understand this constant call for a national retirement income policy. We have an excellent retirement income system in this country. It is not a "three-legged stool," really, but rather, a "four-legged stool," once you take welfare into account. I don't think we need to have more studies and more framing of an optimal system before we can make reforms. There are reforms that need to be made now particularly in the private pension area, to make it more fair. This is an area where the Government spends a lot of money, and there is going to be increased resistance to such expenditures unless the system is perceived as fair. This requires earlier vesting, portability, and examination of options for post-termination, post-employment termination, indexing. We must also think about post-retirement indexing. IRA's should be eliminated, and significant improvement made in the management of pension assets to ensure that retirees and participants earn a real return on their accumulated assets.

Mr. **Spencer.** OK. I know that the panel over here is champing at the bit and probably would like to answer that, but unfortunately, we just don't have the time.

Thank you very much for your participation, and if the next panel would join me, I'd appreciate it. [Applause.]

DEBATE TOPIC NO 2. SHOULD FURTHER AMENDMENTS TO ERISA BE DELAYED UNTIL CONGRESS ESTABLISHES A UNIFIED RETIREMENT INCOME POLICY

Debaters

No: Michael S. Gordon, founding partner, Mittelman & Gordon, Washington, DC.

Yes: Robert D. Paul, vice chairman, Martin E. Segal Co., New York, NY.

Responders

Daniel M. McGill, chairman and research director, Pension Research Council, University of Pennsylvania, Philadelphia, PA.

Dr. Alicia H. Munnell, senior vice president and director of research, Federal Reserve Bank of Boston, MA.

Dallas L. Salisbury, president, Employee Benefit Research Institute, Washington, DC.

Mr. SPENCER. Two of us get to stay, and we get three new faces: Bob Paul, who is standing here; Mike Gordon, and Dan McGill. We have agreed that Mike is going first.

Mr. GORDON. First of all, I'd like to thank Alicia Munnell for making my speech, and I could really sit down now.

I had the rather interesting delusion that the 10th anniversary of ERISA would be something like a celebration, but it seems that trying to celebrate it almost requires as much hard work as enacting it. And if this keeps up, I respectfully suggest that efforts to try to amend it and improve it may fall by the wayside simply because of the discouragement of those people who may realize that in the future, they may have to celebrate the work that they are about to perform. [Laughter.]

Mr. GORDON. I am going to be very brief, because I think that a great deal of what I would have said has already been spoken. My perspective is one of someone who has spent a great deal of time trying to translate broad policy objectives into specific legislation, and that requires a certain amount of conversancy with practical politics.

My feeling is that trying to attain a broad national retirement income policy is a very desirable objective. However, I think that if we are candid, we will admit that every piece of legislation of significance, including ERISA, that has emerged in the retirement field to date has been the product not so much of broad conceptual thinking, but rather a response to particular political, economic, and social circumstances which, for historical reasons, came to a head at a particular point in time.

In fact, it has always been my feeling that ERISA was really 10 years behind when it should have been enacted. It is a great thing that it was enacted in 1974, but most of the concepts that are built into it are concepts that arose in the 1960's, were a response to situations which had begun to develop in the later 1950's, and probably, we would have been a leg up if it had been enacted when Senator Javits originally proposed it.

Incidentially, Senator Javits was also, I think, the first one to really put his finger on the need for a national retirement income policy back around the latter part of 1972, the early part of 1973—I don't recall exactly which. He proposed the notion that we try to formulate some type of integrated framework between Social Security and private pension plans, in which, perhaps, we could aim for a target of recapturing preretirement income, say, around a level of 75 percent.

So I don't think that the issue of trying to develop a national retirement income policy or national retirement income goals is a new or sudden idea. It has been around for quite a while.

It is going to be very difficult to attain these objectives overnight. They will take a lot of hard work, a lot of careful thinking, and most important, they will require the creation of conditions which can translate themselves politically into legislation.

I don't think as a practical matter, those conditions exist now. I think to the contrary, that the economic conditions that exist presently and the belief that we may be experiencing a long-range period of either slow or stunted economic growth, or off-again, on-again economic growth, is a very serious handicap to try to develop a long-range retirement income policy under those conditions.

In fact, just last Sunday, there was an article in the Outlook section of the Washington Post, which postulated that perhaps it would be desirable, as I read it, if we started doing away with the notion of retirement altogether; that we wouldn't need pension systems, we wouldn't need Social Security, and that this is feasible because the economy is shifting basically from heavy industry, manual labor, to white collar, high-tech, that sort of thing, and that therefore, everybody can really work until they are ready to drop.

That kind of thinking, however well-intentioned, derives from the economic experiences that we have recently been through, and the fact that our future, economically speaking, is not the same as it used to be and still requres further definition. It is hazardous to try to create a political consensus which is necessary to create a national retirement income policy under those circumstances. But because that is true, I don't think that we should discontinue working for these goals, trying to develop them, as long as we keep in mind, as Congressman Erlenborn said, that short-term objectives are not identical with long-term objectives, and we shouldn't give in to one for the sake of the other.

Because we have to be more patient in developing the rudiments of a national retirement income policy and trying to develop a consensus around it, we cannot at the same time afford to neglect current issues which require attention, issues which sap public confidence in the integrity of the private pension system. Its fairness and its ability to deliver the goods are all issues that need to be addressed, even though one of the prices that we pay for doing it in this kind of checkered fashion is that it leads to short-term problems of accommodating new pieces of legislation as they come down the pike.

That kind of practical problem is inevitable, but I think if we look at the record up to this point in time, even though there have been some areas where reforms have created disturbances in the private pension system such as the Multi-Employer Amendments of 1980, that by and large, what Congress has sought to do, and for the most part has attained, has been thoroughly practical in terms of the improvements, that is, practical in the sense of the industry being able to adapt to it.

So in the end, the final issue is what needs to be done now. While we are working on developing a long-range national retirement income policy, what can we do now to improve the system, to protect the integrity of private pension plans, to advance further the prospects of participants and beneficiaries for obtaining better pensions, better pension plans—and I should add as a footnote—what also can be done to make sure that efforts to try to advance the prospects of participants and beneficiaries are not undermined by radical tax changes which are being generated by deficit reduction pressures.

Thank you. [Applause.]

Mr. SPENCER. Thank you, Mr. Gordon. Mr. Paul?

Mr. Paul. It seems to me the issue before us is not whether there should be a national retirement income policy but rather, how rapidly we can fill in the background against which various pieces of legislation should be addressed.

The problem is you have a series of legislative initiatives that are coming with overwhelming speed, defying anyone's capacity to absorb them, defying anyone's capacity to understand how one relates to another, defying indeed any analysis of what it is the administration or Congress is trying to do by way of legislation. ERISA was one thing, but since ERISA there have been endless amendments to the Internal Revenue Code, under tongue-defying acronyms like DEFRA and TEFRA and the Retirement Equity Act of this year, and so forth. And I don't quarrel necessarily with the substance of each individual bill, but I do quarrel with the fact that the bills themselves are fighting for the attention of the plan sponsors, making it difficult for plan sponsors to know how to proceed, and they are no longer neutral in terms of the tax effects on plan participants and sponsors.

There was a time when the Federal Government was clearly on the side of providing tax incentives for the development of private retirement programs in ways that advantaged workers in every part of our economy. It is no longer clear that that is the goal of the Federal Government. We are hearing more and more about tax expenditures, we are hearing more and more about how this is an unjust way of providing retirement programs, while at the same time, the replacement ratio of Social Security has dropped for the average worker from 50 percent of average wages to about 40 percent of average wages.

Now, what do we want to do as a country? Do we want to provide all of our retirement income from Social Security? Do we want to provide part of it through private retirement systems which are largely based upon employment relationships? Do we want to provide most of our retirement income by way of individual savings and provide tax incentives along those lines? What are our goals, and what are our objectives? That, to me, is the background against which we should be examining some of these questions, and I don't think we spend enough time asking ourselves what are the goals that we are after.

Nobody is arguing—certainly, not this speaker—that we shouldn't be looking at inequities that we find in the private pension system as we go along, and that we shouldn't at least examine those and investigate whether they ought to be changed. But what I am arguing is that we ought to have an overall framework. What sort of goals are we trying to achieve, and what role should the Federal Government take in trying to get those achieved?

Some people feel that Social Security should be expanded further; other people feel that it should not be expanded. What are the arguments on both sides of that issue?

Some people—and there will be a panel in a few minutes—argue that we should be encouraging retirement systems through the place of employment; others argue that private savings are the right answer. What is the tradeoff on that? Others argue there should be further tax policy that encourages defined contribution plans at the expense of defined benefit programs, and there will be discussions of that.

What really are the tradeoffs, and what is it that we want to achieve as a government?

ERISA approached the problem of pension legislation primarily in terms of the issues of reporting, disclosure and vesting, funding and fiduciary standards. I don't think anybody is going to argue that those issues aren't still with us. There is discussion of faster vesting, there is discussion of more funding, there is discussion of stricter fiduciary standards. But those will only happen if we have a society in which we are encouraging the development of private retirement systems. If we are discouraging that development, there will be no opportunity for vesting or funding or portability or any thing else that anybody wishes to have the system provide for us.

At the moment, I don't think we are encouraging the development of private pensions. Yes, there was a huge recession, and that did cut the rate of growth of private pension coverage, but it is not clear that that rate of coverage will increase unless we continue to make it clear to the private employers in this country that tax policy will encourage the development of private pension plans in this country from now on.

Hence, what are our goals—that is the issue—not whether we can achieve that set of goals by individual pieces of legislation as we go down the road. There is no doubt that there will be continuing need for legislation.

I am surrounded by lawyers—my wife is one, my son is one, and my daughter is about to go to law school—so perhaps I am oversensitive to people who are very concerned with the rules of how the game will be played. And I really am appealing for us to ask ourselves what game it is we want to play before we decide on what the rules ought to be. [Applause.]

Mr. SPENCER. Thank you. Just to sum up briefly what we are talking about here—I think Bob Paul has raised the question which Senator Javits raised this morning—which end of the stick are you playing with? And I think Mike Gordon is saying if you wait around for pension policy, some kind of a permanent retirement income policy, you may wait a long time, and meanwhile, the world is going on, and you've got to react to the issues.

With those, let's get some questions from our panelists. We now have three panelists over here, and we'll give each of them a chance to raise a couple of questions.

Let's start with Dan McGill.

Dr. MCGILL. I would like first, Bruce, if I may, to say that I am pleased to be here and to be a part of this celebration of the 10th anniversary of ERISA. I will thrilled to see Senator Javits this morning and hear his inspiring remarks and also to see and hear John Erlenborn.

Many of the things that were accomplished by ERISA, I started talking about in the 1950's after coming to the Wharton School to start the Pension Research Council. Some of my colleagues and I worked in the academic vineyards for years without any impact whatsoever, until Mike Gordon and a few other people came along with a slickly produced TV program that many of us have probably forgotten, called, "Pensions: A Broken Promise." That changed the environment and the atmosphere overnight, and ERISA got enacted.

I think ERISA has been a very good development for private pensions. Certainly, there are criticisms that we can make of it. It probably went too far in some directions and not quite far enough in other directions.

There are many things I would like to say this morning, but I realize my role is to ask questions. But I would like to say two things if I might, Bruce. One is, I spoke for years in favor of mandatory vesting. I heard the same arguments back then that I am hearing today against shortening the vesting period, interference with the prerogatives of management and labor. I believe that vesting could be reduced to 5 years without any serious consequences to most firms. We all realize a function of the turnover rate. Required vesting could be reduced to 5 years without very much additional cost.

As to plan benefits insurance—I prefer to refer to that a pension benefits insurance rather than plan termination insurance, because I don't think that plan termination ought to be the insured event in the first place—I think it is absolutely critical that the legislation that has been pending before Congress for several years be enacted to define the insured event as insolvency of the plan sponsor, to substitute unlimited liability of the employer for the 30 percent of net worth limitation. Also, we need to move to an exposure-related premium. I am rather pessimistic about whether we can get to a risk-related premium, and should.

I suppose if I had to ask a question this morning, it would be on portability. I would ask either one of the speakers to tell us what he means by portability.

Mr. Spencer. Why don't you start, Mike?

Mr. Gordon. Well, in my frame of reference, portability means two things, one of which is technically inaccurate. But within the framework of portability, I cover both reciprocity, which technically means the ability to transfer from one plan to another without loss of vesting. That typically is found today among agreement with certain multiemployer plans or between large corporations, national or multinational, among parents and subsidiaries.

The second meaning of portability is the ability to transfer vested credits from one plan to another with the idea of improving its value. Typically, participants then earn vested credits early in their career—these are relatively small amounts. In fact, by reason of ERISA, many of them may be cashed out where the funds don't even flow into the retirement income stream at all; they are spent, as earlier speakers said. But the basic idea is to be able to plug these little bits and pieces of vested benefits into a retirement income formula which will usually be larger as the employee improves in the salary scale of his or her career, and so there is some benefit in being able to provide for this kind of portability.

I have always thought that one of the great defeats under ERISA was that we were really unable to achieve any type of even voluntary portability scheme in both the connections that I have mentioned. That is, although studies were authorized to see if there would be some ways of encouraging the further growth of reciprocity agreements, to my knowledge, nothing at all really has been done on that subject of any significance. And as far as the portability of vested credits is concerned, all we have now is a rollover IRA scheme. There is some discussion because the topheavy rules in TEFRA creating even earlier vesting resulted in even more lump sum cash outs of little bits and pieces.

There is talk now of trying to create some type of mandatory cash out into an IRA where it will be maintained until retirement. I think that is a very heavyhanded approach. There are many employees who do not want to maintain IRA's. Many of them do, of course. That should be an option. But I think the way to deal with this problem now—particularly as we lower the vesting formula and make it earlier—is through some type of portability clearinghouse, which will relieve the burden of recordkeeping, administration, and investment from employees. I thought that for a long time, especially after reading Professor Bernstein's book back in the seventies. I ought to give credit where credit is due.

Mr. **Spencer**. Bob, did you have anything to add?

Mr. **Paul**. Portability really means that the employee takes control of the property that is his, that is, the vested pension. The question then becomes what do you do with that property and how do you define the value of that property.

In a defined contribution plan, it is reasonably clear what the property's value is; it is the account balance. And most sponsoring employers allow an employee to take a defined contribution account balance and transfer it elsewhere if they terminate employment. It is also increasingly the case that employers allow the employee to choose how to invest the defined contribution account balance, even while they are employed.

The more tricky question is what do you do with the defined benefit vested right, and what is its value, and how do you make that portable if you decide to do that.

There is a sort of growing dialog, prompted by the recent discussions in Great Britain and by one of the people on this panel, who have discussed the whole issue of how do you value the defined benefit right. If you value it at a rate of interest like the valuation rate, 7 to 8 percent, and you give that value to the employee, he or she can then invest it elsewhere in an IRA, and can earn probably 12 percent in today's environment. The property will then be worth more at retirement than the simple promise of *y* dollars per month in retirement income that is promised by the benefit program.

So if you are going to alter the character of a defined benefit plan so as to make the vested benefit portable and equal to the dollar value at some discount rate at the point of vesting and leaving of employment, and you are going to allow that employee to take control of that property, that's a different kind of vested right and a different kind of property right than we have had in the past, which is simply the promise to pay a certain number of dollars per month commencing at age 65.

So the issue of portability, I think, has to do with how you value a defined benefit vested right and what amount is going to be made available to the employee if you are going to make it portable.

Mr. **Spencer**. Do you have anything you want to add, Dan McGill? I'm sure you had a good reason for asking that question.

Dr. McGill. I was pleased with the answer because so many people talking about portability don't have a well-defined concept in mind. In my mind, the essence of portability is the protection of the purchasing power of the benefit that has accrued, and there are obviously various ways to do it. Merton Bernstein, who is in the audience today, in his book many, many years ago, talked about the clearinghouse, but I think many of us wonder what mechanism would be used in the clearinghouse to protect the value of the accrued benefit.

Also, if we ever should go to any type of indexing of the retirement benefit, we should think seriously of indexing the terminated vested benefit.

Mr. Spencer. Dallas Salisbury, did you have a question, comment, or something to direct to the panel?

Mr. Salisbury. One question to the panel. It seems that in both of these panels this morning, there has been general agreement, and in the introductory comments, that there is a national policy interest in economic security and in retirement resources. I heard from some of the introductory comments with both the Senator and the Congressman a certain bias that defined benefit plans may do that most effectively. There seemed also from all of the speeches, in spite of differences over coverage levels and other things, that ERISA has in fact been successful in securing benefit rights for those who were in plans; and also, there seemed to be agreement that it has influenced the types of plans being developed and the relative balance; and then a theme in the introductory comments but not really in these two panels, of what I'll term an institutional theme, that neither the Congress nor the Government is really yet organized to deal with these issues effectively.

I had to excuse myself, for example, to go up to a Finance Committee hearing on basic tax reform proposals which would fundamentally change everything we are talking about here today, yet in none of the analyses of basic tax reform the committees have put forth are there any mentions in any detail of those implications.

Given that, to the speakers, within the context—and I underline—of a voluntary system of these benefit programs, does there not—to go back to the initial debate point—need to be a very clear understanding and definition of the relative balances we want between defined benefit plans, defined contribution plans that pay out in annuity streams, as compared to individual retirement accounts, before—and I underline the before in the question—before we take more legislative actions which further bias employer and individual decisions amongst and between these vehicles in, as was pointed out by Tom Woodruff and others, directions that may not meet the agreed-upon goal that everyone has spoken of as retirement income, reversion of assets and terminations being a crucial example of the degree to which piecemeal legislation has led to what I think everyone here would concur are undesirable results.

Mr. Spencer. Mike, I'll give you a chance on that one.

Mr. Gordon. Well, I will be here for the next 2 hours, and I will endeavor to answer that. I think it is very difficult to give a satisfactory answer to that question at this point in time, Dallas, so I'll try to give you an unsatisfactory observation, which is that I think it was the intent of ERISA to fortify defined benefit plans. It was the hope of ERISA that such fortification would take place, and I think, absent other factors, it may very well have happened.

There are other things going on in the world besides pension plans. That may be hard to understand for people who work in the private pension field, but it is true, believe me. And these changes that are taking place impact on the private pension system, and they don't really flow directly out of either private pension policy as expressed in legislative enactments like ERISA, or from other government policy sources. There is a fundamental issue here which Dallas is really shifting attention away from by addressing it as if it were a matter of governmental policy, and as I see it, it is this, in a nutshell. The business community, a substantial portion of it, is pushing very strenuously for reduction of the deficit. And the question is what sacrifices are they willing to accept in order to achieve that objective.

One of the sacrifices they may be willing to make, particularly now in view of the other incentives there are for shifting from defined benefit plans to defined contribution plans, in order to make the deficit look more reasonable is doing something that adversely affects the incentives for defined benefit plans.

I think the tax committees may have their own agenda, but they also recognize the source of conflict within the business community itself. If the business community spoke with one voice and said, "Look, we realize that reducing the deficit is important, but one of the prices we are not willing to pay, and we want to make it very clear, is messing around with the incentives for defined benefit pension plans." I think you would see a different situation from what is happening right now.

Mr. SPENCER. Bob Paul?

Mr. PAUL. I just want to reinforce what Mike has just said. We have a conflict between tax policy, which is deficit reduction, essentially, and what may be an appropriate social policy for this administration. This administration argues that it wants to shift to the private sector more and more initiatives, and would in theory, I think, argue that you should be encouraging the development of private pensions. If this administration at the same time is going to remove or limit or change the tax incentives for the private sector to encourage the development of private pensions, this administration will end up encouraging the development of a larger amount of Social Security in the long run, because there simply will not be enough private pensions to meet the needs of the retired workers of this country. So the administration must confront, somehow or other, the dilemma they have created for themselves and find a solution.

Mr. SPENCER. Because we don't have enough time, Alicia Munnell has graciously agreed not to ask a question or even to make a statement. I want to thank Alicia, and I also want to thank the rest of the panel for a very stimulating session, as well as the first panel this morning.

Thank you very much. [Applause.]

Session 2

RISK VERSUS CONTROL: WHO SHOULD BE RESPONSIBLE FOR PROVIDING ADEQUATE INCOME TO MEET AN EMPLOYEE'S RETIREMENT NEEDS?

INTRODUCTION: REPRESENTATIVE J. J. PICKLE OF TEXAS

MODERATOR: JOEL CHERNOFF, WASHINGTON EDITOR, PENSIONS AND INVESTMENT AGE

DEBATE TOPIC NO. 1. WHICH IS THE MORE APPROPRIATE MEANS TO PROVIDE RETIREMENT INCOME: INDIVIDUAL SAVINGS OR EMPLOYER PROVISIONS

Debaters

Individual savings: Peter J. Ferrara, associate attorney, Shaw, Pittman, Potts, & Trowbridge, Washington, DC.

Employer provisions: Susan Koralik, partner, Hewitt Associates, New York, NY.

Responders

Donald S. Grubbs, Jr., consulting actuary, and manager, Washington, office, George B. Buck Consulting Actuaries, Inc.

Dr. Stuart M. Butler, director of domestic policy studies, the Heritage Foundation, Washington, DC.

Mr. ROTHER. I want to thank the members who contributed to an excellent discussion this morning in our first session, and I am looking forward to an equally high-quality discussion in session No. 2, "Risk Versus Control: Who Should be Responsible for Providing Adequate Income to Meet the Employee's Retirement Needs?"

I can think of no better person to introduce that issue to us than the chairman of the Social Security Subcommittee in the House Ways and Means Committee, Representative Jake Pickle.

Representative PICKLE. I am pleased to be here. I feel like I am getting a little extra because I have been able to sit out in the audience and listen to this last panel. I feel kind of like I am participating in a fringe benefit here this morning, although that may be an unpleasant subject or word to use.

But I am glad the conference is being held, and I know a lot of good will come from it. I have a brief statement I want to make, and then at the conclusion of it, I want to expand on it just a bit.

I know that your subject here this morning is primarily pensions and pensions plan savings programs, and not so much with respect to Social Security, but I think that all of it goes together. So what I want to do very briefly is to outline to you some of my general thoughts on this subject and then go just a bit further at the conclusion of it.

A major issue that confronts America today is how to provide adequate income for our retired workers. This is nothing new. It has always been the case and probably always will be a major issue. Historically, Americans have felt that each individual should be responsible for his own economic needs. Each person or each family takes care of their own problems. Although private group pension plans started to appear as America began to industrialize, they were in a very limited manner. It was not until 1930—and indeed, I guess, the Great Depression time—that that picture began to shift. At that time, Social Security responded to the hardship caused by our Nation's economic collapse by providing a basic floor of income to those who could no longer participate in the work force. It was never intended to meet a worker's full retirement needs. It was not a regular insurance program. It was a social insurance program, a floor, a base, a supplement.

Now, Social Security has in a very great measure been a success in this Nation, and its very success has led to a dramatic change in the retirement planning and expectations of most Americans. Workers today expect to retire while still enjoying health and prosperity so that at that age, 62 or 65, they've got a good, solid Social Security benefit and perhaps some savings, and they can buy a van and take Mama, and they can tour America and enjoy the good life. Many of them do, and that is, of course, very wonderful.

But Social Security wasn't designed to meet the full requirements of prosperity and health and full enjoyment of a worker's retirement. We know that something else has to be added, and we approve of that and recommend that be done, and we are glad that the employee-sponsored plans have been inaugurated and are growing.

When deciding which of these two approaches—that is, pension plans or savings—it is important to realize that the Government is always playing a major role. These retirement programs are strongly affected by Federal tax policy. Both individual and employer-provided pension programs are indirectly subsidized and they are regulated on the basis of preferential tax treatment. Now, you know that, the employees know it, the business know it, the public kind of knows it. But the Federal Government is becoming more and more mindful of that each day. In fact, in both of these areas, much of the growth that has occurred is as a result of this Government involvement.

When ERISA was passed, there were approximately 425,000 pension plans in operation. Today, that figure has risen to over 800,000. In the case of individual savings, individual retirement accounts, IRA's more than doubled the first year they were made available in 1972.

These tax preferences are allowed in order to encourage workers to provide for their own retirement and not just rely on Social Security. However, once Government becomes involved, it becomes more difficult to determine which program is best suited for meeting people's needs. And this raises the basic question: Are people participating in any given program because it meets their needs, or because of the tax advantage that it offers?

To be honest about it, that is what a lot of people ask now.

Now, in sharing our Nation's retirement income security policy, we must respond, I think, to some of these basic concerns: (1) Are the programs effectively meeting public expectations; (2) are our programs efficiently delivering these benefits; (3) are all Americans being treated equitably; (4) are these benefits being promised by these plans adequately secured; and (5) is it necessary to continue the present high level of Government involvement and support—should we have the Government take a lesser part of it instead of an increasing part?

Furthermore, we should ask, is there a continuing need for employer-sponsored pension plans? Assuming that there is a continued need for them, and I believe there is, we should also consider the relative merits of those plans which guarantee a set level of income versus defined contribution plans. Since the passage of ERISA, we have seen a definite slowing in the growth of defined benefit plans, while the number of defined contribution plans has steadily increased.

So we in the Congress are beginning to ask ourselves more and more as these changes come about, is this the proper level of participation in each one; is this shifting of the risk and the rewards justifiable.

Today, you are going to hear on the following panel individuals who are authorities on this kind of question, and I know you are going to follow their comments closely.

Now, let me add to these introductory remarks and then I won't take any more of your time because I know you have a panel to follow. The Social Security Subcommittee and the Select Revenue Measures Subcommittee of the Committee on Ways and Means will hold hearings next week for 2 days, and we hope again before this session is finished, on the broad question of pension, savings, IRA's, as well as Social Security. We are asking ourselves what is the proper level; who is going to be responsible for this?

I listened to the panel here a few minutes ago, and each one advocated portability or advocated more participation in the ERISA program or the IRA program. And perhaps during the morning they touched on this and I don't know it, but the question wasn't raised of how much should they grow; how much should we allow IRA's to grow? Should we put a cap on it? Should we put limitations? Each time we've tried that, most of you have opposed it. Should we put some kind of limitation on savings? Most of you would say no, let the Government pay for it. And we are reaching a point where Uncle Sam is saying, "Hey, we ain't got the money to give you all you want," you, the employee—to put it in rather a Texan style, and excuse me. But we have to ask ourselves how much do we allow in these program.

Now, I know you don't think that IRA's or pension programs are fringe benefits. That's a very distasteful thought for you. They are employee benefits. But the programs are being sponsored primarily by the Federal Government, and the question is do we put a limitation in percentage or in dollars on the level of participation in each one of these programs? How far do you go?

I have the feeling that if the Government didn't step in and try to set some kind of limits, I think you, the employer, in many respects, and the employee, together would say that we should establish a barter system; we'll pay you about half in wages and half in benefits, and that's a good deal for both of you. But it is a terrible deal for the Federal Government.

So we ought to ask ourselves, and we are beginning to ask, what is the proper level, what is fair, and how far do we go in supporting these benefits. We know that Social Security by itself is not enough, it is just a floor. And therefore, we are very much for pension programs and the IRA's. I was cosponsor of the IRA program when it started in 1972. But we are beginning to ask now the broad questions.

So as we get this evidence next week, we are doing it for the purpose of putting on the record testimony on this subject. We are doing it without a bill before us. We are not holding hearings on a special proposal. We are simply saying, what do you feel? We are going to get comments from the Government, and we will be getting them from the employee and from the employer. I hope by doing so, we can have facts before us, and we can have a better understanding. And part of the understanding will be, I think, and I hope we will find an answer in this panel, whose responsibility is to maintain and to pay for these programs.

I thank you. [Applause.]

Mr. ROTHER. And now, if we could have the moderator, debaters, and responders for session 2.

Mr. CHERNOFF. I'd like to thank Congressman Pickle for laying the foundation for discussion on the three-legged stool and how we approach it. On this panel, we are going to discuss two of those three legs, dealing with employer provision of retirement benefits and individual savings and what the appropriate role is for each within the retirement income scheme.

I am going to ask our panelists to do something my editors often ask me, and that is to try and be succinct, because we are running a little late. I would also like to ask the introductory speakers to make their opening remarks from the podium to my left.

First is Peter Ferrara.

Mr. FERRARA. Thank you very much. To begin, I'd like to put this exchange in the proper perspective, from my point of view, and also this fits in to addressing the issues raised by Congressman Pickle.

In my opinion, both IRA's and pensions serve workers far better than Social Security, and both should be sharply expanded in the future for the purpose of taking over more of the functions of Social Security.

My debating topic is not to talk about pensions and IRA's vis-a-vis Social Security, and my purpose here is also not to attack employer pensions so much as to defend IRA's and individual savings against what often can be described as virulent and unwarranted attacks of certain though perhaps just a minority of lobbyists for big business-provided pensions, who are pursuing, in my opinion, a counterproductive political strategy of defending tax preferences for their big business clients by attacking the IRA's of the little investor. I want to hasten to add that my fine debating partner here today is not among this misbegotten crowd.

Now, this strategy of these particular corporate lobbyists forces the little investor to point out the many major shortcomings of employer big business pensions as compared to IRA's. First of all, portability and vesting will always be a complication with employer pensions. IRA's however, have instantaneous portability and vesting. The worker's rights in the IRA vest as soon as the money is paid in, and the IRA follows him wherever he goes. This is good not only for the worker, but for the economy as a whole. Pensions tend to reduce mobility and consequently, efficiency in the work force, by tending to tie workers to one particular firm. With IRA's, this is not a problem.

Employer pensions are also generally structured by the employer, and they do so in large part to benefit the employer, to serve his purposes and not necessarily the employee's. Many employers, for example, will structure the pension to induce the employee to stay with the firm longer than he wants, or to retire earlier than he wants, or to retire later than he wants. The employer will also often have the opportunity to manage the investments of his pension assets for his own maximum benefit, and not necessarily for the maximum benefit of his employees. With IRA's, by contrast, the worker can tailor his investments and his retirement benefits to suit his own individual needs and preferences. He is free to retire when he wants without penalty; he is free to invest in the highest-yielding safe investment.

Now, some of these lobbyists for big business like to talk about taking the risks off of the employee's shoulders with pensions. But the fact is, business usually takes the easy part—the comparatively easy part—of the risk through defined benefit plans, taking for themselves the risk of variation in investment returns, and leaving for the worker only the risk of inflation.

Even much of the risk of investment returns ultimately rests on the employee with pensions, where in the best of circumstances with a pension, an employee must rely on one-source investor expertise, the expertise of his employer. In many circumstances, the employee's pension money is in effect invested in the employer's company, which is hardly a way to spread the risk.

The fact is that returns have historically been much better on broad based investments easily available to employees, such as mutual funds, than on employer-managed pensions. Through such investments, and not through pensions, workers can get the maximum advantages of pooling and spreading the risks. Such investments, moreover, are simple and universally available, and such direct investment gives workers more of a sense of a direct stake in the private economy and improves their appreciation of our private enterprise system. Through a sufficiently broad-based investment, buying a piece of a very broad, diverse pool of equity interests, you can get the maximum amount of spreading the risk that can be available in any kind of investment, and this is easily available to the average worker through an IRA, by investing through a very broad-based mutual fund type of investment.

Finally, the laws favoring pensions, the tax laws favoring pensions, provide tax reductions mostly for big business. The tax provisions creating IRA's reduce taxes on the little investor, helping him or her develop a stake in the private economy. Now, big business likes to compare the incomes of those who receive pension coverage with those who invest in IRA's. But, again, the tax reductions from the provisions favoring pensions go to big business. Pension benefits are compensation won in the market by workers, and big business would have to provide that same compensation, in the form of pensions or otherwise, in any event.

Moreover, the income distribution of those covered by IRA's versus employer-sponsored pension plans are not that different. Forty percent of IRA participants are workers with under $20,000 income, compared to 51 percent for pensions, and only 36.5 percent for section 401(k) plans. Now, you look at workers under $10,000, and it is an interesting fact: 13.5 percent of IRA participants are workers with under $10,000 in income, while only 10.8 percent of pension plan participants are workers with under $10,000 in income.

Now, I believe that participation in IRA's by lower income workers can and should improved by allowing employers to contribute to the workers' IRA's and take the deduction instead of the employees. This could be an option. The employee could say to his employer as part of a benefit situation, "You contribute to my IRA, you get the deduction, and then I have control over those assets in the future."

Moreover, through modified tax plans, such as the Kemp-Kasten proposal or the Bradley-Gephardt proposal, all workers would be deducting IRA contributions against the same tax rate, which is another desirable change in my view.

To sum up, I think that from the perspective of workers and the small investor, rather than from the perspective of big business, IRA's are clearly superior to employer-provided pensions. But there can and should be important complementary roles for both IRA's and pensions in a comprehensive private retirement system, and I would oppose cutbacks in the current tax provisions which encourage pensions provided by employers today.

That sums up my comments. Thank you very much. [Applause.]

Mr. **Chernoff**. Next, we will hear from Susan Koralik.

Ms. **Koralik**. Good morning. I can't disagree with Peter that I think IRA's do have a role. However, if Congressman Pickle is correct, then we can't have it all. I am here to defend the employer-sponsored plans.

Employer-sponsored retirement plans, as you all know, take many different forms, but I would like to focus my comments this morning on the type of plan that is most akin to an IRA, and that is the section 401(k) savings plan. These plans allow employees to accept a reduced taxable salary in exchange for a tax-deferred contribution to a qualified savings plan.

Now, these plans are not available to the total population, since not every employer offers a plan. However three arguments suggest that employer should continue to be encouraged to provide such plans.

First, employer-sponsored plans have been more effective in stimulating wide participation among all income levels than IRA's.

Second, penalties or restrictions on the use of these savings for needs other than retirement apply equally to all income groups in section 401(k) plans, but the IRA withdrawal penalties seem to favor the highly paid.

And third, the investment opportunities for the small saver, I believe, are greater through employer-sponsored plans than through IRA's.

Let me expand on each of these three arguments.

First, the participation rates. Employer-sponsored savings plans have been effective in stimulating high participation rates for many years. In surveys conducted by the Bankers Trust Co. since 1961, average participation rates in employer-sponsored savings plans have always been over 70 percent. Clearly, one factor that stimulates the high participation rate is the opportunity for a company-matching contribution. For example, in a typical plan, for every dollar the employee saves up to 6 percent of his pay, the company contributes 50 cents.

This matching concept, a popular feature in savings plans for many years, is being continued among the companies that are offering section 401(k) plans. In a 1983 survey of 246 section 401(k) plans, Hewitt Associates found that 204 of the plans, or 83 percent, were providing a matching contribution. The result is continued high rates of participation. Among the companies reporting, participation was at 81 percent after the plans were amended to add the section 401(k) features. Interestingly, this was an increase from an average participation rate of 73 percent before the section 401(k) features were added. Was the increase due to the added tax advantages? To some degree probably, yes. However, it is likely that part of the increase is due to the communication efforts that typically surround the introduction of any plan change.

This communication effort is an important factor. Since employer-sponsored plans are subject to discrimination standards, employers must make sure that every employee, high-paid and low-paid, understands the benefits of these programs and encourage all employees to enroll. Now perhaps we are comparing apples and oranges a little bit, but the 80-percent participation rates that we see in savings plans have to be contrasted with the usage of IRA's. Based on a 1983 survey conducted by the Employee Benefits Research Institute, only about 17 percent of the work force have IRA's in place. That number is probably growing, but if you start to look further as to who make up the 17 percent, it is not too encouraging. It is not too surprising that the prevalence of IRA's is much greater among the higher paid than among the lower paid. If we focus on employees earning less than $20,000 a year, only 11 percent have IRA's. Over $20,000 a year, the precentage jumps up to 30 percent. And if we look at people earning over $50,000, the percentage jumps up to 58 percent.

It is also interesting, I think, that IRA's were intended to provide a source of retirement income for people who weren't in employer-sponsored plans. But the same survey indicated that 65 percent of the people with IRA's are in employer-sponsored plans, so the need is not that great for those who have established the IRA's. It is also interesting that over 50 percent of the funds invested in IRA's, based on this survey, came from savings that had already been established. So this is not additional savings, but rather, this transfers from one savings account to another to get the tax advantage.

These figures suggest that if we really wish to stimulate savings from retirement to build up that third leg of the stool, that we can be much more effective by encouraging the introduction of more employer-sponsored plans.

The second issue that I wanted to consider is what are the penalties or restrictions on using savings for needs other than retirement. Let's focus on 401(k) first. The law says that the savings can be withdrawn while employed only if there is a severe financial hardship. The IRS has not yet given us a clear definition of a hardship. However, it is probably safe to assume that it would be easier to claim that you have a hardship if you are a lower-paid person than if you are a higher paid person.

In contrast, the rules governing access to IRA contributions appear to favor the highly paid. The rules require the payment of a penalty of 10 percent of the amount withdrawn regardless of the reason for the withdrawal. Therefore, before investing in an IRA, a person has to consider the probability of needing the money before retirement. If there is a chance, the person must compare the potential value of saving after tax dollars and paying taxes annually on the investment yield, with saving on a tax-deferred basis in an IRA and paying the penalty if the money is withdrawn.

The results of this analysis will vary based on the individual's tax bracket. Assuming a 10-percent investment return in either type of plan, a person with a marginal tax bracket of 20 percent must leave his contribution in an IRA for 8 years to be as well off as he would have been if he had saved on an after-tax basis and didn't have to pay the penalty.

In comparison, a person in a 50-percent tax bracket would only need to participate in the IRA for 5 years to break even.

So the IRA penalties really appear to favor the highly paid.

The third issue we would like to comment on is the potential investment opportunity. In setting up an IRA, an individual has complete freedom of choice. For the sophisticated investor, this may be a clear advantage. But for the small investor, the freedom of choice may be meaningless, since there is little objective assistance available on how to select among the many choices. In addition, the investor may need to pay a brokerage fee or loading charge for mutual funds that can again detract from the investment opportunity.

In contrast, employer-sponsored plans offer the unsophisticated investor a choice of investment alternatives selected by the employer, so there is someone offering some assistance. It is also interesting to see that about 64 percent of current IRA funds are invested in fixed interest accounts. Fixed interest accounts also tend to be the most popular in employer-sponsored plans. However, because of the dollar volume, employers can generally secure higher guaranteed rates than an individual investor.

In summary, after looking at participation data, considering the penalties for use of savings prior to retirement, and the available investment alternatives, we would conclude that employer-sponsored plans are more effective and more equitable in encouraging savings for retirement.

Thank you. [Applause.]

Mr. CHERNOFF. Don, would you like to lead off?

Mr. GRUBBS. Yes. I have the advantage of being perhaps the only person in the room who doesn't need to say anything about any of the issues, because in chapter 6 of the committee print, you already have my summaries of all of the arguments, pro and con, on all of the issues. [Laughter.]

Mr. GRUBBS. I do have a question, though, related to something that appeared in the Washington Post Sunday. It said, "In a 1981 survey of people 65 and over, 78 percent had no investment income; 68 percent received no pension income."

My question for Mr. Ferrara is: If we want to provide an adequate income for all American workers, is there any realistic hope that most of the low-paid persons who do not have any significant personal savings now are going to accumulate significant personal savings?

And, for Susan Koralik, the question is: Unless we have a minimum universal mandatory pension system, is there any realistic hope that most of the people not now covered under employer pension plans are going to be covered?

Mr. FERRARA. OK, I'll go first.

I didn't read the Washington Post article, but I think the statistics you cite just show that what we need to do is expand the opportunities for pensions and IRA's so that people will have more widespread additional support from both pensions and IRA's in the future. And in particular, in my talk, I raised a proposal which I think would address the issue of enabling lower-income people to be able to develop more of those assets, and that is that they ought to take the element that Susan pointed out in the 401(k) plans and expand it to IRA's; that is, allowing employers to match the employee contributions to IRA's and take deductions for their contributions, or even allowing the employers to make all the IRA contributions instead of the employee and take all of the tax deduction.

And this leads into another point which sort of addresses something that Susan raised in her talk, regarding the investment choices. There are broad-based equity mutual fund-type investments which are simple, easily available to everybody, and have generally earned higher returns than employer-sponsored pension plans. You don't have to be a genius to invest in one of those; you don't have to be supersophisticated. They are routinely available and easily available, and I think what we ought to be looking to is getting more people involved in making investments in American business and industry, giving people more of a stake in the private economy. This will not only improve, in my opinion, their future retirement benefits, but will improve their appreciation of markets and of the private economy and of American business and industry, as well.

Mr. CHERNOFF. Susan.

Ms KORALIK. I don't have too many statistics available, but this morning, a number of people have been quoting statistics on the expansion of employer-sponsored plans in the last 10 years. I think someone quoted the statistic that 10 years ago, only about 45 million people were covered by employer-sponsored plans, and today that number is up to around 70 million people. I think Congressman Pickle quoted some numbers on the number of qualified plans that are in place as having grown from something in the neighborhood of 400,000 to about 800,000, I believe, in a 10-year period.

So I think the indications are that there is clearly a strong trend toward the continued expansion of employer-sponsored plans, if the incentives continue to apply. I think employers will continue to expand the coverage. And although someone mentioned that having coverage does not necessarily mean that you receive benefits, we know that you won't receive benefits unless you are covered as a starting point. So I think the introduction of these new plans, although they can't do anything for employees who are already over 65, suggest that we will see a change in those statistics as we look forward over time.

Mr. CHERNOFF. Stuart.

Mr. BUTLER. I think several of the speakers this morning, particularly Robert Paul and Congressman Pickle, made the very important point that it is very difficult to assess different private pension schemes because they are distorted by Government action. And, as Susan Koralik pointed out, some of the attractiveness of company-based pension plans arises from the tax treatment of those plans, particular vis-a-vis the business contribution.

My question stems from an attempt to stand back from this point and say: well, if we really pursue the idea of private pension plans as a major general source of retirement income, and given that one can make changes in the tax implications, which of the two alternatives being debated presents the better vehicle for reaching that goal of a secure retirement income; and in particular, which vehicle would be better in dealing with some of the issues raised with regard to investment opportunities? In particular, are investments on behalf of an employer made truly in the interest of the employee rather than the business, or the mutual fund, or whatever; second, with regard to portability, which of the two methods best addresses some of these problems of people who do move from one job to another; and third, what about the general issue of vesting rights.

In other words, what I'd like to ask is, if one had the ability to make subtle changes in the tax code to balance some of the differences that now exist between IRA's and company pension plans, which in the opinion of the speakers would best achieve the purposes, as a general vehicle for securing retirement income?

Mr. FERRARA. Let me take the first crack at that. I think that, really, that was the whole topic of the talk, and I went through each one of the main points. But my main point is I think we shouldn't be fighting IRA's versus pensions so much as looking to expand both to take over more of the functions of Social Security. And this phrase, to address the issue, of "can't have it all"—what I am suggesting is that both IRA's and pensions ought to be expanded, and the government's role in Social Security ought to be reduced, and have those take over those functions, and both of them can do the job a lot better. In many ways pensions and IRA's have a complementary role in providing a comprehensive private retirement system. I think when we get into a dog fight of IRA's versus pensions, then you force people who favor IRA's to begin to get into a fight over pensions, and the purpose of my talk was to show that there are an awful lot of good points that would be broadly appreciated by the public to be made in favor in IRA's vis-a-vis pension.

But the main issue, I think, is that we are being focused in the wrong direction by having these two things hitting each other. What we should be looking to, again, is to expand both of those to take over more of the functions of Social Security.

Ms. **Koralik**. I'm going to agree with Peter. I guess I'd like to look at it another way, too, in terms of one of the issues you raised, which was portability. I think employer-sponsored plans and IRA's are already working in tandem to achieve some of the goals that people are now saying we still need to achieve, which is portability. As you leave an employer-sponsored plan, if there is a cash payout, that money can already be rolled into an IRA. We already have a mechanism for portability which would allow the employee to have continued control over those assets.

The other question that I think is a valid question is the one of vesting. With the IRA's, obviously, there is no vesting requirement, but with the typical employer-sponsored plan, there is a vesting requirement. It is interesting that, as you look at the savings-type vehicles of defined contribution programs that are, again, closest to IRA's in their structure, the typical vesting provisions are much more liberal than what ERISA mandates, and the typical vesting requirement would provide for 100 percent vesting after 5 years of service, rather than the typical ERISA standard of 10 years.

So I think that is still a legitimate difference, but it is not that extreme.

Mr. **Chernoff**. Don.

Mr. **Grubbs**. Yes. If we are going to make the private pensions competitive with the IRA's, shouldn't we improve the vesting requirements, as Congresswoman Ferraro has proposed, to go to 5-year vesting, and wouldn't that be a move toward making them more competitive?

Ms. **Koralik**. I'll address that. Yes, I think it would be more competitive. And, as I said, with the defined contribution programs that employers are providing, most employers—most large employers, anyway—already are there; they are already meeting Congresswoman Ferraro's recommendation of 5-year vesting.

On the defined benefits side, I would say that the more typical vesting requirement is 10 years of service. But I think, as someone mentioned this morning, we have all been looking for ERISA-II ever since ERISA-I was passed. And I think employers are anticipating that at some point, they will be going to 5-year vesting.

Mr. **Ferrara**. Well, I think that is just more unnecessary government intervention and regulation of the private economy and makes pensions look more unattractive to employers on the margin, and I think you are always going to have a vesting problem, and that the IRA's are an ideal vehicle for addressing that issue.

Mr. **Butler**. If I might just ask one brief question with regard to the participation rates that were mentioned by both speakers. I know this is a difficult question to answer, but to what degree does each speaker believe that the difference is at the lower levels of income between the participation rates in company plans and IRA's is a reflection of the Tax Code, and to what extent would revisions in the Tax Code to make them more equal tend to balance out those different rates? To what extent is it other factors that are coming into play?

Mr. **Ferrara**. Well, first of all, when you are comparing pensions and IRA's on this basis, you have got to start with the recognition that pensions across society as a whole have a higher participation rate than IRA's. This probably primarily because they have been around a whole lot longer than IRA's. I think the important thing to look at is the income distribution within each vehicle and the distributing of participants within each vehicle is not that different. As I mentioned in my talk, 40 percent of IRA participants have incomes under $20,000, compared to 50 percent of pension plan participants. In fact, for people under $10,000, you have a higher percentage of IRA participants than pension plan participants. And it is just not that different across the board.

Now, I suggested in my talk a couple ways to improve participation by IRA's, particularly among low-income people. One was to give the option to the employer to match or make the contribution and take the deduction, and the other is through adoption of these tax code overhaul proposals that would basically apply everybody's deduction at the same tax rate, as would Kemp-Kasten or Bradley-Gephardt. You are giving everybody the same incentive across the board, and that also, I think, would encourage more participation by lower-income workers, and I think those proposals would address that issue.

Ms. **Koralik**. One comment that I'd like to make on all the data that I think Peter and I are both looking at in trying to assess the relative merits of each of these types of programs is that it focuses on the individual who sets up the IRA and their income level, and it doesn't indicate whether there is an additional source of income in the family, like the spouse's income. And I guess I would question, especially in the below $10,000 category, the large percentage of people setting up IRA's. Are they really in that low of a tax bracket, or are they the second wage earner and are putting aside money for retirement. I think the data is perhaps a little misleading.

Mr. **Ferrara**. Well, that would be true of pension plans, as well.

Ms. **Koralik**. Yes, oh, yes. That's why I'm saying I think all the data is a little faulty.

Mr. **Ferrara**. So that would apply across the board.

Ms. **Koralik**. Yes; I think all the data is a little faulty. I don't mean to jump on you there, Peter.

This is just an opinion, so let me just define it as that. If you are in a 50-percent marginal tax bracket, you are going to be much more concerned and much more encouraged to set up some type of retirement savings for yourself, whether it is an IRA or 401(k) savings, than if you are in a lower tax bracket.

I think the participation in employer-sponsored plans has borne this out, and I think the participation in IRA's, although we don't have as much data to go on, suggests that same conclusion.

Mr. **Grubbs**. Mr. Ferrara, for the average American worker earning $15,000 a year and having trouble buying the groceries and paying the rent, does it matter how good the investments are and what the tax incentives are?

Mr. **Ferrara**. Well, of course it does, I guess, to give the answer very simply. The better the return, the better the answer very simply. The better the return, the better retirement he is going to have, and I think through the proposals that I made involving allowing the employers to match contributions to the IRA's or make the contributions to the IRA, this would get around a cash flow problem that a lower income worker might have, and so I think I addressed that issue.

Mr. **Grubbs**. I would just comment that most lower-income workers do not have any significant personal savings, and for lower-income workers, the majority are not covered under a private pension plan. The statement of 70 million, I think, is an incorrect statistic. The percentage of workers covered under plans has not changed significantly in the last 10 years, and unless we have a minimum mandatory universal pension coverage, I don't think that we are going to achieve that objective of making sure that all American workers have adequate incomes.

Mr. **Ferrara**. Well, let me just stress that I think that those statistics support my position, which is that we should be looking to expand IRA's and pensions to give workers the opportunity to accumulate more assets and more income in their retirement.

Mr. **Chernoff**. Susan, do you have a summation?

Ms. **Koralik**. My only comment would be on the issue that was just raised as to whether there should be a mandatory pension system. I think that is going to be one of the subjects for debate later this afternoon, so I don't really want to get into that. But I guess our position at this point is that at the very least, employers should be encouraged to do more. Therefore, we should at least continue the incentive that is provided for employer-sponsored plans and for IRA's, rather than creating a disincentive for the programs that already exist.

Mr. **Ferrara**. If we're going to do a sum up, I just have two sentences. I think mandatory pensions ought to be considered as a substitute for at least part of Social Security, but not on top of Social Security. And just to reiterate, I think the main point here is, we shouldn't be fighting IRA's versus pensions, but looking to expand both to take over more of the functions of Social Security.

Mr. **Chernoff**. I'd like to thank your panelists very much for a lively discussion. [Applause.]

DEBATE TOPIC NO. 2. WHAT EMPLOYER-SUPPORTED DEFERRED COMPENSATION ARRANGEMENTS BEST MEET THE NEEDS OF OUR EVOLVING WORK FORCE

Debaters

Guaranteed income: Vance Anderson, employees' relations counsel, Mobil Oil Corp., New York, NY.

Defined contribution plans: Walter Holan, president, Profit Sharing Council of America, Chicago, IL.

Responders

Lawrence N. Margel, vice president and chief actuary, Towers, Perrin, Forster, & Crosby Consultants, Philadelphia, PA.

Richard S. Raskin, director, Association of Private Pension and Welfare Plans, the Wyatt Co., New York, NY.

Mr. **Chernoff**. On this panel, we are going to explore more specifically the different types of employer-provided retirement income plans that are available, and the various pros and cons of those.

As you can see, Bob Peters of Mobil could not make it this morning. I believe he was delayed by bad weather up north. But Vance Anderson, also of Mobil, is here in his stead, and Vance is going to start off, talking in terms of plans that provide guaranteed income.

Mr. **Anderson**. Good morning. This is probably a good reason why you shouldn't check in with the office once you get to Washington. [Laughter.]

Bob apologizes; it is partly weather and partly the congested airports that we seem to be experiencing in New York. But that is another issue, hopefully, that will be resolved here in Washington, shortly, and we can start arriving on time.

I have the advantage of being a late entry into the discussion, and I will take advantage of the opportunity that I have to quarrel with the question that has been posed to the panel today.

On a preliminary basis, I would have to join with Mr. Ferrara's closing comment, that we should not view various alternative savings and retirement benefit plans as necessarily one in competition with the other. I'm not sure that I like the support he gave to that argument inasmuch as it seemed to be that there was some competitive edge being demonstrated there as between the two. And I will offer my qualifications from this standpoint. Mobil, as an employer, offers both defined contribution and defined benefit plans, and we find that the mix and combination of those plans is what really, truly meets the needs of the broadest cross-section of our employees.

Let me also point out that whether or not there is a competition between defined benefit and defined contribution plans is an issue that has real vitality within the very narrowly circumscribed boundaries of the Federal triangle, as between here and the White House, as between the Treasury Building and the Potomac; that there is perceived to be competition between defined contribution plans, defined benefit plans, IRA's, Keogh's, and 401(k)'s.

Let me suggest to you that I don't think that the employees of my company, which I have some feeling for, perceive that there is some competition as between those alternative forms. Were they to have the question posed to them, I think I could anticipate for you what their response would be, what their relative order of priority would be as between those forms. I will not do that, because at that point, I think I am off the track.

Let me also offer a comment that it seemed to me that Congressman Pickle this morning was suggesting that there is an issue that may be described as whether or not the availability and the utilization of tax preferences in some fashion is influencing people's financial behavior. Well, as a lawyer, and as someone who spends some time in Washington, whenever I consider the answer to a question of that sort, I always try to measure what impact it will have and whether it gets me closer to or further away from the objective that I have with respect to Mr. Pickle, with respect to the Ways and Means Committee.

It is a double-edged question, because my answer either way can hurt me. If, in fact, people's behavor is not being influenced by the availability of the tax preference, then presumably, Congress can change those tax preferences with impunity. Conversely, if they are being influenced by the availability of the tax preference, then presumably, I lay myself open for that awful moral argument that the code in some fashion is not revenue-neutral. I'm not sure that I think the code should be revenue-neutral; I hope you don't. I hope the Ways and Means Committee ultimately concludes that it does not wish the code to be revenue-neutral, either.

Back on my assigned topic. Let me suggest that, with respect to the defense of the defined benefit plan, that its ultimate defense, the one we start with and the one we end with, is that the vast majority of the employees in our country who find access or who are able to achieve access to a defined benefit plan uniformly tell us that they are pleased. They may quarrel with regard to whether they become vested fast enough, they may quarrel with regard to whether or not the benefits are big enough or not, but they all enjoy and tell us that they enjoy, the availability of the guaranteed retirement income stream.

Let me also suggest to you that the defined benefit plan has among its many virtues the opportunity for an employer to periodically adjust the benefit formula to take into account past service of groups of employees who may be entering the covered work force at some later stage in their career. It gives them the opportunity to take into account past inflation. Furthermore, it gives them the opportunity to take into account salary history; any number of adjustments are available to an employer under a defined benefit plan.

In our experience, we have not been able to use defined contribution plans to accomplish those same objectives.

Furthermore, I would point out to you that from the employee's standpoint, the availability of the PBGC guarantee with regard to their defined benefits is of some real measurable value to them. It gives them some additional level of insurance, even in the case of an employer such as Mobil. We have a number of employees who I am sure would bank on our success for the next 10 years, the next 20 years, but there are other employees who may be looking further down the road, who may be listening carefully to the dire predictions that we are running out of oil, and they may not feel quite so satisfied or quite so assured that the company will, in fact, be able to carry through on these promises.

Let me suggest to you that these defined benefit plans are of equal utility to both our short service employees and our long service employees. Let me confess up front that it is true that a 55-year-old employee is probably much more aware of and much more appreciative of the availability of his defined benefit plan, and yet I would suggest to you that even though the awareness and appreciation that the younger, shorter service employee may have with regard to the ultimate availability of defined benefit retirement programs is not as great; it is nonetheless equally in his best interest that that plan be there, so that as his interests and expectations mature, as he moves closer to retirement, he can become, in fact, more appreciative or what has been made available to him.

Let me point out to you as a digression that it has been our experience that the shorter service employees are most concerned with the defined contribution plan. Clearly, the younger employees are most concerned with the defined contribution plan. And yet, inevitably, as they mature in the work force, as they become older, as they become closer to retirement, they become, if not fixated, very, very concerned with respect to the defined benefit plan, and less so concerned with respect to the defined contribution plan.

The disadvantage to a defined benefit plan? I think there are several. One is that quite clearly, defined benefit plans historically, and even today, have required longer service for an employee to develop a vested right to the benefit. In addition to that, until recently, many defined benefit plans did not provide for a survivor benefit of that sort attaching at vesting prior to the attainment of early retirement age. Let me point out to you that the recently enacted Retirement Equity Act has addressed the survivor's benefit issue, and I would suspect that, based on discussions that have been going on for several years now in Washington, that some attention will be paid to the question of whether or not the vesting standard in ERISA is too long. So it may well be that within some reasonable period of time, we will be dealing with relatively shorter vesting standards, and presumably a greater attractiveness to the employee because of that.

Let me come back and emphasize to you that our employees, at least in the experience that we have had at Mobil—and I think it is probably true across the economy—find that the defined benefit plan is in a position where it can provide substantially greater assurances to the individual employee with respect to the potential ravages or past ravages of inflation. In addition to that, the employee can look to the plan to insulate him against the risk or the defined benefit component of our benefit plans, can look to those defined benefit plans to insulate them directly against the adverse interest expense, or the adverse investment experience, that he may or may not suffer from 1 year to the next in the marketplace.

I should probably conclude with that, but let me reemphasize, if I may, that it is the flexibility of the defined benefit plan that allows an employer to respond to the changing needs of his workplace, the changing needs of the employees, and it also allows the employee to proceed with his investment program outside the defined benefit plan, with some greater degree of assurance and some greater degree of flexibility, and presumably, the ability to take some greater level of risk.

Thank you. [Applause.]

Mr. CHERNOFF. Thank you. Next, we have Walter Holan, from the Profit Sharing Council of America.

Mr. HOLAN. Thank you. I certainly agree with Vance on the flexibility that corporations have on both types of plans. Many of my members have both defined benefit and defined contribution plans, and I am really concerned when it is put on an either-or basis.

Let me discuss some of the advantages of profit-sharing plans to employees, to begin with. First, the greater the profit, the greater the retirement income; employees can affect their retirement income. Second, the greater the investment return, the greater the employee's retirement account. Conversely, the employee suffers the risk of adverse investment returns. No integration—very few profit-sharing plans are integrated. This is particularly important to low-paid employees. Forfeitures—these go to other employees. They are rarely used to reduce employer contributions. Graduated vesting—many plans vest at 10 percent a year, or even earlier. In today's mobile society, this is particularly important.

Portability—the combination of early vesting and lump-sum payouts enables mobile employees to roll over their amounts into an individual retirement account or to the succeeding employer plan, if it so permits.

Security—if the plan is terminated, the employee's account is fully vested and payable to him or her. There can be no reversion of assets nor does the employee have to look to PBGC for a guarantee.

Full vesting at death or disability, regardless of age or service—this is important to surviving spouse and children.

Personal savings—a large number of deferred profit-sharing plans, 60 percent, in fact, by encouraging and making participant savings easy through payroll deductions, offer the participants an easy way to save and have the taxes on the investment earnings deferred. On these savings, the participant receives professional investment services at the lowest possible cost.

Flexibility of payout at retirement—retirees can generally choose lump sum, installments, or annuity.

Inflation protection—through flexibile payouts and varying tax treatments, the retiree is in a position to make conservative investments to keep pace with inflation. For example, Treasury bills have generally kept pace with inflation, according to the Ibbotsen-Sinquefield studies. Retirees need not depend on employer for ad hoc increases. Companies like Mobil can afford these ad hoc increases, but there are many smaller and medium-size companies that cannot. The employer may even be out of business.

Now, what are the advantages of profit sharing to employers? There are a number of studies indicating that profit-sharing companies are more profitable than non-profit-sharing companies, which time won't permit me to detail. Needless to say, increased profitability is important for more reasons than retirement income alone. Such profitability insures continuance of the company, the job, and also generates increased tax revenues for the Government.

Another advantage to the employer is that contributions are made from current or accumulated profits. If there are no profits, there are no contributions. This can be important to an employer with a cyclical profit history. For such a company, the fixed commitment required by a defined benefit plan, the need for the company to fund adverse investment results, and the continuing actuarial costs, not to mention the PBGC premium, may cause great hardship to the company.

The two disadvantages of profit sharing to employees are: (1) The lack of profits or minimum profits to be contributed to plans; and (2) the risk of an investment loss.

If a company is unprofitable, it is doubtful it could afford any retirement plan, even a defined benefit pension plan. Possibly, the major disadvantage of a profit-sharing plan is that the investment risk rests with the employee.

However, a number of steps have been taken in recent years to minimize these risks. Employers have been encouraging employees approaching retirement to transfer their account balances to fixed income vehicles which are less susceptible to drastic losses. In addition, the use of investment options in plans has been growing, so that employees can choose their own level of risk.

One of the changes in investment policy has been the investment in guaranteed investment contracts by profit-sharing plans. Our recent annual survey showed that, in companies who do not invest in employer stock as a matter of policy, some 18 to 20 percent of these funds were invested in GIC's. Even on retirement, the employee has an opportunity to recover some investment losses. For example, if the employee retires at a time when the stock market is at a low ebb, he can either leave his balance in the profit-sharing plan and receive installments which will grow as the market recovers, or he or she can roll over this lump sum into an IRA fund invested in an equity vehicle. Neither of these is a perfect solution, but they do offer some opportunity in the event of investment risks.

One of the risks that I see in both defined benefit and defined contribution plans is the limitations imposed by section 415 of the Internal Revenue Code. The defined contribution limit of $30,000 adopted in TEFRA represents something in the range of $13,000 in 1974 dollars, the first year these limits were imposed. Not only that, but TEFRA froze these limits until 1986, and the recent Deficit Reduction Act extended this freeze until 1988.

As inflation affects more and more employees with these limits, these limits tend to decrease the importance of these plans to more and more executives, and there will be less and less interest in adopting such plans. This applies to both profit-sharing and defined benefit plans.

Again, let me reiterate that I think the best of all worlds is a benefit to the employee that includes a defined benefit plan, a profit-sharing plan, voluntary employee savings, and a variety of investment options, including employer stock.

Thank you. [Applause.]

Mr. CHERNOFF. Thank you. We have a crack team of actuaries up here to fire the questions away. Larry Margel and Dick Raskin.

Larry, would you like to start off?

Mr. MARGEL. Yes. Actually, before I ask a question, I certainly want to go on the record that as far as I am concerned, if one assumes that the purpose of any retirement scheme is to provide an adequate replacement income then I certainly feel a defined benefit/final pay plan targets that objective for each employee. The best you can do with a defined contribution plan is, on average, hit those same targets. But in my opinion, having too much in the accumulation is just as bad as having too little.

But all the discussion that has been going on so far seems to focus on which is better from the point of view of the employee and what kind of a benefit he gets. What I am very concerned about is the choice viewed from the employer's perspective. The fact that the subject is on the agenda for debate gives an implication that it is still an open discussion.

My feeling is that the legislature and the staff in Washington have pretty well answered the question from their actions and their past history.

So let's take a look at the choice of putting in a defined benefit or defined contribution plan from the employer's point of view, given that he has a willingness to provide some kind of retirement income for his employees, and assuming that he thinks he can provide the same income from both types of plans.

First of all, adopting a defined benefit plan creates for that employer instantaneous liability, and that can't be paid off for many, many years. And if the assumptions are not borne out, there will be continually new unfunded liabilities created. Defined contribution plans, basically, are never open-ended commitments.

And if we assume that all the benefit costs are the same between these two choices, we still have the additional cost of the PBGC premium; soon to be $7, probably going to be $12. For companies that have well-funded pension plans, that is clearly an excess cost; and therefore, given that benefit costs are the same, this must be viewed as misspent and unnecessary costs.

Third, the administrative burden of defined benefit plans is significantly more intense than it is for defined contribution plans. The records that have to be kept are clearly more onerous. A final pay pension plan must have detailed records on hours of service. It is much easier in the defined contribution scenario just to rely on the pay, as records are kept for normal W-2 purposes. You have got to keep more intensive records for terminated employees, and that is something that really should be unnecessary. In fact, what we see is that most vested terminations are being lump-summed out, mainly to save the PBGC premium and the recordkeeping. More elections are required. They weren't required before. The latest Retirement Equity Act has now increased the elections. There is going to be another series of provisions put in by the law to gerrymander benefits and defined benefit plans, which everybody will immediately elect out of.

There is need for more continued IRS interaction and approval with defined benefit plans. Changes in funding methods have to be run past the IRS. Changes in assumptions that the IRS deems to be changes in funding methods have to be run past the IRS.

If you are dealing with a defined benefit plan, you always have an open-ended potential for loss of tax deduction. You have a penalty, possibly, for underfunding. The IRS reserves unto itself the ability to "Monday morning quarterback" and put you outside either one of those boundaries. Big brother watches very closely.

Changing legislation, as we have all seen, can have retroactive cost impact on defined benefit plans, must more easily on defined contribution plans. The employer that goes the defined contribution route does not have to worry to as great and extent that something is going to happen to raise his costs and his obligations significantly.

There is a growing preception by employees that they are better off with defined contribution plans. Why it that so? I submit it is so because the employees are anticipating using those funds for nonretirement reasons, because if the retirement benefits are ultimately the same through either vehicle, they should be neutral as to what kind of plan.

Now, what I'd like to ask Vance in particular is, in light of all these problems in putting in defined benefit plans, why are companies staying with defined benefit plans and struggling so hard to undo the damage that the Congress has done to the particular form of vehicle?

Mr. ANDERSON. I was hoping we'd get a question in that vein, and you asked the right one, Larry. Let me just suggest to you that there is a long answer and a short answer.

The short answer is, it is because the plans achieve the objective that we have set for ourselves and for our employees, and the defined benefit plan is the only way we have found to provide some assured level of retirement income replacement on attainment of retirement age. We will suffer through with these burdens, and there will be a point, presumably, if the burdens become ever greater than they are now, that we will determine that the cost is too high. Individual employers each must make that decision, and every year presumably on the margin, some employers decide not to start a plan because the burdens are too great, or decide to convert to some other mechanism because the burdens have become too great.

Let me suggest that I keep looking, and I have heard for 10 years, that employers are about to go out of the defined benefit business. Somehow, we seem to struggle on 1 more year with it. But it clearly is an issue that is revisited every year, and the answer is a very short one: They do the job today.

Mr. CHERNOFF. Dick.

Mr. RASKIN. I have been asked to make my statement in the form of a question. I would just like to make a very short statement, and then I'll ask a question.

I agree with the speakers in their analysis that the question that was asked is not the right question. We are a very pluralistic society, and I think that is a good thing. The ability to have either a defined benefit plan or a defined contribution plan or both is good because they do serve different purposes. The question really should be is the tradeoff that is in the Tax Code and in the other regulations and the other legislation affecting those plans—are the tradeoffs correct, or are we pushing too hard in the direction of defined contribution plans.

With that statement behind me, I'll ask a question. Mr. Holan, you described defined contribution plans solely in terms of profit-sharing plans, yet there are a whole array of other defined contribution plans. They include stock bonus plans and money purchase plans. Is there a place for those plans, and do they belong?

Mr. HOLAN. Actually, my experience is related primarily to profit-sharing, and that's why I spoke only of profit-sharing. Now, we're talking about a universe that consists of 360,000 profit-sharing plans, 18 million employees, $75 to $100 billion in assets. Money purchase plans have been growing in the past few years, as have stock bonus plans. In 1983, for example, employees participating in stock bonus plans increased from 1982 to 1983 by 946,040, which is a tremendous growth, considering that a few years before that, there were very few employees covered.

*I really don't know what is behind the growth in money pur*chase plans—I can't answer that question. But I would say that profit-sharing represents the largest universe of the defined contribution universe.

Mr. CHERNOFF. I'll follow with a question, if I may. We so often talk in terms of defined benefit versus defined contribution plans, and my question is, basically, is there a place for both. Mobil, of course, does have both types of plans, as do many other companies. Is there a place for both defined benefit and defined contribution plans in the total retirement income picture, as opposed to pitting one against the other? Walter?

Mr. HOLAN. I think one of the problems here is—I ran across this in doing some reasearch on this. "The heart of academic research is a scientific method in which everything can be assigned a number, measured, controlled, replicated, validated and relied upon." This is one of the problems that profit-sharing has in Washington. I can't tell you what the contributions are going to be, I can't tell you what the payout will be. We have made studies of various companies which show that low-paid employees are retiring with more than 100 percent of income.

Now, I hear some consultants quarrel about that. Why, I don't know. The employee enjoys it. The company has no objection, and the Federal Government gets more taxes. The only ones I hear complaining about it are those people who deal with the numbers. They are disturbed by the uncertainty in profit-sharing. I see nothing wrong with it. The question was asked earlier, why have two plans. I think part of it is that management would like some numbers, and for this they have a defined benefit. They'd like to also get the incentives and the additional profit they can get out of defined contribution. And I think that is why you have seen a growth in both types of plans in those companies which can afford them.

Mr. ANDERSON. I would concur with everything that was said. Let me also point out that the answer is probably yes in two contexts. There is room for both in individual companies such as ours, where we have both kinds of plans. Let me also go on to say that there is room for both in the sense that some employers and some employee groups may find one more attractive, if they are only going to have one, and they choose the defined contribution route because it works better in their circumstances. Conversely, they may choose the defined benefit route because it works better in their circumstances.

Let me add a note, if I may, something I meant to mention earlier. Sometimes the issue was framed today as whether the Tax Code will prefer and thereby encourage defined benefit plans, or whether the Tax Code, conversely, will prefer and encourage defined contribution savings arrangements. I would like to point out to anyone who is interested in the history of these matters that we had defined benefit plans a long time ago. What is different about them today as opposed to 1903, when the original Standard Oil Co., set up their first defined benefit pension plan is that we do, in fact, have vesting standards, we have funding standards, we have an actuarial profession that comes in and preaches about the merits of free funding and the soundness of assumptions. All of those improvements exist for qualified plans only.

I daresay that the employees who, because of the last three tax bills, now find themselves suddenly impacted by the 415 limits and some measurable portion of their benefits, if they are lucky, being shoved into a "top hat" plan or an excess benefit plan, may want to pose the question somewhat differently, and that question is: Why do we want to make defined benefit plans unfunded, or why do we want to make them less funded? Why do we want to go back to 1903, when the Standard Oil Co. was able to have a defined benefit pension plan that was 1 page long, and there were a lot of ifs and a lot of caveats and a lot of discretion, and if you were good and if you lasted a long time, then maybe—maybe—you'd get a benefit if the company felt like paying it. But that seems to be the direction that the tax policy is going.

That's an advertisement.

Mr. **CHERNOFF**. Larry.

Mr. **MARGEL**. Yes, Mr. Holan, I would like to ask one question. If we assume that the structure of the law right now requires a tradeoff between the defined benefit and the defined contribution plan, why should an employer sponsor a defined contribution plan when clearly, if his objective is to provide replacement income with some relationship to final pay, that few employees could have a very, very different defined contribution accumulation even though they have the same final pay? I say that given that it is the base retirement plan; it is not on top of another defined benefit plan.

Mr. **HOLAN**. Well, first of all, you are making the assumption that the plan is installed purely for retirement purposes, and yet profit-sharing has another goal and that is an incentive.

I am not sure I understand how you mean the law would be changed to favor one versus the other. I don't see how it can be done, frankly.

Mr. **RASKIN**. The defined benefit plan gives the employer flexibility in influencing retirement decisions. He can improve the benefits in real terms, or he can disimprove the benefits in real terms by allowing inflation to do its dirty work.

One of the previous speakers indicated in his tone, at least, that he thought this was bad. In the defined contribution plan, the employee, by adding to his account balance, can influence the amount that he is going to have as a retirement benefit by contributing to the plan and therefore, two employees who are very similarly situated get different benefits and benefits different than the employer predicted.

I'd like to know if either of the speakers think that either of those things are bad.

Mr. **HOLAN**. Well, I think one of the big weaknesses in statistics is the lack of information on the personal savings, the voluntary savings, in private plans. I think it is good that employees are able to save under tax shelters. And I know that several years ago, when we had a low-profit year, our annual survey showed that the employee contributions exceeded employer contributions for that year. So I think here is a way to make up for one of the problems in defined contribution plans—by having employee savings.

Mr. **Anderson**. Do I think flexibility is bad? Certainly not. Let me point out to you that we've all got to do some guessing if we're trying to look out 5, 10, 15 years, and focus on earnings replacement ratios. Presumably, there may be few of us that can anticipate exactly where the benefit levels in Social Security are going to fall in each of those years, but it is only if you have a defined benefit plan that you have the ability to do a retroactive adjustment, or to pick up for a mistake that you may have made in your estimates, or to pick up for any anomalies that may crop up in that system.

Mr. **Chernoff**. I don't think we are going to arrive at any consensus today, but I'd like to thank the panelists for devoting their considerable wisdom and intelligence to the discussion.

Thank you, gentlemen. [Applause.]

[Whereupon, at 12:50 p.m., the proceedings were recessed, to reconvene at 2:45 p.m.]

Session 3

POLICY ISSUES FOR THE 99TH CONGRESS AND BEYOND

INTRODUCTION: SENATOR JOHN H. CHAFEE OF RHODE ISLAND

MODERATOR: ANTHONY A. HARRIS, EDITOR, BNA PENSION REPORTER, WASHINGTON, DC

Panelists

Vesting and portability: Edith U. Fierst, Attorney-at-Law, Washington, DC.
Indexation: William N. Rutherford, senior vice president, Human Resources Division, Sun Co., Inc., Radnor, PA.
Integration: Daniel I. Halperin, professor of law, Georgetown University Law Center, Washington, DC.
"Pension losers": Paul H. Jackson, vice president, The Wyatt Co., Washington, DC.
Long-term issues: Phyllis C. Borzi, counsel for pensions, Subcommittee on Labor-Management Relations, Committee on Education and Labor, U.S. House of Representatives, Washington, DC.

Responders

Theresa B. Stuchiner, partner, Kwasha Lipton, Fort Lee, NJ.
Robert S. Stone, senior corporate counsel, IBM Corp., Armonk, NY.
Russell J. Mueller, actuary, minority legislative associate, Committee on Education and Labor, U.S. House of Representatives, Washington, DC.
Edward J. Davey, executive director and general counsel, Association of Private Pension and Welfare Plans, Washington, DC.

Mr. ROTHER. At this time it's my great pleasure to introduce to you Senator John Chafee of Rhode Island. He has had a long and distinguished career in public service as a State representative, as Governor of Rhode Island, and as U.S. Senator since 1977. He is here because he is the chairman of the Savings, Pensions, and Investment Policy Subcommittee of the Senate Finance Committee.

As chairman of that subcommittee, he has frequently introduced legislation concerning pension plans, and as a key player in the Finance Committee's continuing review of pension issues.

We are pleased to have him today to introduce to us our session on policy issues for the 99th Congress and beyond.

It is my great honor to introduce Senator John Chafee of Rhode Island. [Applause.]

Senator CHAFEE. Thank you very much. I am delighted to be here at this 10th anniversary celebration of ERISA. I must say you have got a powerful array coming after me, 10 speakers, so I will be brief.

As you all know, this pension field is an esoteric and abstruse one, bordering on the mysterious or the occult. It reminds me of the way Churchill described Russia's action: "It is a riddle wrapped in a mystery inside an enigma."

And it is also truly an eye-glazing subject. As a result, very few Members of Congress know much about this area. Indeed, sad though it is, with the departure of John Erlenborn from Congress, I think it's safe to say that there is no one in the House or Senate who knows as much as we really should know about this subject.

This is unfortunate, because obviously we are dealing with not only billions of dollars, but we are also dealing with the standards of living of millions of Americans now and in the future.

Let me briefly describe what I think will be some of the issues in the 99th Congress. You are going to hear more on that from this powerful panel.

Now, of course, it's been 10 years since ERISA was enacted, and the problems which ERISA was designed to solve I think have largely been solved. Those are the concerns about the financial failure of some of the plans, the inability to provide adequate retirement security for the participants, concerns over empty promises, and concerns over the onerous vesting requirements or lack thereof which existed some 10 years ago.

We all know the horror stories about pre-ERISA.

But today we in Congress have other worries. We are still concerned, of course, with the fiduciary standards and prudent management of the assets of the plans, which now total, as I understand, nearly $600 billion.

What of the future? One of the areas we are going to be looking at, of course, is the tax policy implications of pension plans. This has come to the fore principally because of the mammoth Federal deficits and the commensurate growth of so-called tax expenditures.

When we come into session next February we will be looking perhaps at a so-called tax reform, that is, major revisions in the code, or, if not, certainly we are going to be looking for additional revenue. Thus, as a result, one way or another, we are going to be looking at each of the tax expenditure items. I probably don't have to tell you that the largest single tax expenditure item in the budget is the $60 billion per year that goes for pensions.

So we are going to be looking at these to see whether the tax incentives that we have provided for pensions are operating as we intended them to operate. Specifically, it seems to me, we have got to look at all the items listed as pension benefits to see whether they are actually being used for retirement, for pension security. Example, the IRA's or the 401(k) plans, are they really being used for retirement purposes or just for deferred tax savings?

I think we have got to look at the distribution of pension benefits across the income classes. Example: the President, as you know, has pushed for increasing the spousal IRA's. Which income classes would really benefit from an increase in spousal IRA's?

Thus, I see the 99th Congress as being very concerned over the number of tax dollars that are ostensibly being foregone in the name of retirement security.

Now, what about some of the other issues? I would just like to make a couple of comments on them.

Portability of pension benefits, of course, is becoming more and more important as our work force becomes increasingly mobile. I personally favor portability. As was mentioned in the introduction, I was Governor of Rhode Island. In that position, I dealt with the TIAA applying to teachers, and that, of course, provided complete portability for teachers.

And one of the concerns, I know, that some have about portability is that you won't be able to keep your good employees. However, it seems to me that there is a reverse side to that, and we saw it in the teacher field. We couldn't get a good teacher to come to our university unless we had TIAA because they wanted to bring their pensions there, and if they didn't stay at our university long, they wanted to be able to take whatever they had accumulated there elsewhere.

So it may well be that if a company wants to get good employees to come with them that they have to offer portability in their pension systems. [One person applauds.]

Thank you for the thunderous applause on that. [Laughter.]

The first hand I've gotten from a union man in quite awhile. [Laughter.]

Now, I think that the increased demand of the work force for faster vesting and increased portability, of course, has an influence on the type of plan that employers are going to provide.

As you all know, there is current debate over the future of defined benefit plans. These are amongst the most heavily regulated under ERISA, and there have been reports that more and more employers are switching to defined-contribution plans.

This trend, if it exists, may further be encouraged by the push toward portability. The younger employees like to see their vested accounts balance move with them as they shift from one employer to the next.

But if the pension system moves to all defined-contribution plans, will this provide adequate security for retirement benefits?

Another subject: the integration of the private pension systems with Social Security. I think we are going to be looking at that as well next year.

Now, there are many critics who feel that this one feature contributes more to discrimination in favor of highly compensated employees than any other part under ERISA. It may be that most, if not all, the complex rules that we have had to put into ERISA to assure nondiscrimination could be eliminated if we simply did away with integration, and perhaps required a little faster vesting of benefits. I don't know whether you agree with that, but certainly there are some of that opinion.

A little bit about indexing. I am opposed to all forms of indexing in the tax code, so I would like to use the word, instead of "indexing," to use the word "inflation-proof pension benefits." As was mentioned, I introduced S. 1066, which would allow the employee and the employer together to provide the inflation-proof pensions.

On the day the employee retires, the employee and employer would both make contributions to purchase a supplemental retirement annuity which would provide cost-of-living adjustments each year. We had hearings on this last September in the Finance Committee, and the Treasury Department was, if I could say it kindly, unenthusiastic. However, we are trying to work with them to find an acceptable method of providing these inflation-proof pension benefits.

The Sun Co., for example, has been very supportive of this idea, and I believe there is a representative of Sun here today.

Finally, I would be interested in hearing what suggestions come forward on what can be done to protect the retirement security of employees not covered by ERISA, the so-called pension losers.

In summary, I think it's wonderful that this conference is being conducted; I think you have a splendid turnout. I understand this is being videotaped, and I look forward to hearing what the panel and others have to say on these subjects of vesting, portability, integration, indexation, pension losers, and any other topics which those here feel might be important for us to consider in the 99th Congress.

Good luck. You are in an important area. It's an area that it behoves all of us in Congress to know more about, and certainly I am going to try to know more about it in the future than I do now.

Thank you very much. [Applause.]

Mr. ROTHER. And now if our panelists for the third session would come forward.

Mr. HARRIS. Good afternoon, my name is Anthony Harris. I'm an editor with BNA Pension Reporter, and our topic for this afternoon is policy issues for the 99th Congress and beyond.

We have a pretty full agenda, so I am going to move right along.

Our first speaker this afternoon will be Edith Fierst, who is a practicing attorney in Washington, DC, specializing in retirement income, and her topic will be vesting and portability.

Edith.

Ms. FIERST. I feel as though everything that we have heard up till now is sort of an introduction to what I have to say. It seems to me that the two greatest problems facing the pension world are vesting and portability, and that speaker after speaker has alluded to this fact.

An employee who is not vested is not going to get a pension. Under current law, 88 percent of medium and large pension plans have 10-year vesting, and most employees don't stay 10 years; in fact, I suspect most employees don't stay 5 years.

At the present time, as a result of the amendments in 1982 under TEFRA, there is 3-year vesting, either precisely or averaged over a period of slightly more years, for the employees of topheavy plans. Topheavy plans are plans in which 60 percent of the benefits go to key employees; that is, employees who own the company in one way or another.

And this leads right into the other subject which has also been mentioned by Senator Chaffee and others, namely the extent to which pension plans are really a form of tax shelter, a very expensive form of tax shelter.

I looked at some figures which the Congressional Budget Office put out estimating tax expenditures this year at $56 billion. These are lost revenues this year from pension plans. But they also estimate that if you were to compare this figure to the amount of money that would be expended by the Federal Government if you appropriated the money instead of taking it in lost taxes, the actual cost to the budget would be $78 billion.

The reason for the difference is that appropriated money goes to the people who in many cases would have to pay tax on what they get. That is not true of foregone revenues.

The point is, the American public is putting an enormous amount of money into pensions. And it seems to me that it is entirely valid for us to be asking what are we getting back in return. I believe we are not getting enough back in return if most employees aren't vested in most of the pension plans that exist.

The initial step taken by TEFRA, shortening the vesting period for the employees of companies where most of the benefits go to key employees, seems to me a wise piece of legislation. I am not at all frightened by the idea that if we were to reduce the vesting period further, some employers would go out of the pension business.

So what? Those employers are getting a free ride on Uncle Sam. It seems to me that we, as taxpayers and members of the public, ought to be considering the expenditure for pension purposes and comparing it to other comparable uses that could be made of the same resources.

As Senator Chafee and others before him have said, next year we are going to have to look at the enormous Federal deficit that the United States is facing and make some tough decisions. I believe that unless pension plans are paying for themselves by providing vested pensions for employees—especially employees who believe themselves to be ultimately entitled to receive pensions as a result of them—that they ought not to be so generously subsidized by us as taxpayers.

The other issue I have been asked to talk about is portability, and this is a far more difficult question conceptually for me, as I think it is for everybody. The reason that portability is so tough to deal with is that as a result of having the kind of private pension system that we have, every conceivable variety of pension plan exists, differing significantly not only between defined benefit and defined contribution plans, which have been mentioned, but also with respect to early retirement and other provisions.

The theory on which a pension is based, whether upon *x* dollars per month for each year of service or contribution of *x* percent of salary, and whether based upon the high 5 years or career average, or whatever, pension plans vary enormously one from the other.

And so it is very hard for varying plans to provide portability, as is done in a multiemployer plan where an employee moves from one employer to another, but stays within the same plan, funded and designed under the same concepts. Similar portability is true also under Social Security, which is one reason that Social Security is such a wonderful program for all Americans. It is a transferable entitlement which is portable from one job to the other.

Somebody mentioned this morning that a number of plans have arrangements for reciprocity; this is a design under which employers, usually within an industry or an area, covering relatively few workers, have agreed between them that if an employee moves from one plan to another, they will provide credit for the past service.

But for everybody else it is extremely difficult to figure out a way to convert the current value of whatever entitlement this person has accrued in a form that makes sense to transfer it from one plan to another. Senator Kennedy and Ms. Ferraro have announced they will propose 5-year vesting and permitting plans to convert the current value of an employee's vested benefits into a lump sum which can be rolled over into an IRA. I certainly think this is a great idea and it should be done, but for reasons I don't have enough time to explain in more depth, alas, it's not going to solve the problem completely; it will help. I hope somebody will ask me some questions and I will have a chance to talk more about it. Thank you very much. [Applause.]

Mr. HARRIS. Thank you, Edith. We are going to continue to move right along.

Our second speaker is Bill Rutherford, who is senior vice president of human resources and administration of the Sun Co., which is in Radnor, PA, and his topic will be indexation.

Mr. Rutherford.

Mr. RUTHERFORD. You all have heard from an awful lot of experts here today so far, and I might provide you some small break on that count. [Laughter.]

I am not an attorney or an actuary or a tax expert or even a consultant. I am a member of a senior team of a major corporation that is concerned about providing retirement benefits for the employees. More specifically, today I would like to talk about postretirement increases to those benfits. The subject here has been called indexation, but that is probably not the proper word. I think Senator Chafee gave my speech in his introduction.

The Sun Co. has a defined benefits retirement plan, supplemented by a defined-contribution plan, and, like most plans in industry, it's a final-pay plan formula which does provide some inflation protection during employment years and at the time of retirement, but, as we know, after retirement, even in periods of modest inflation, that fixed income can be eroded fairly severely.

To lessen that impact, most major employers grant ad hoc increases from time to time. My own company has granted 10 such increases since 1960 at an estimated cost of over $100 million, and while I am sure retirees and surviving spouses of my company and other companies appreciate those increases, I think are also realistic enough to know that future increases depend not only on the continued good will of their former employer but also the future financial stability.

One of the alternatives that is often mentioned as an approach to this is to index the underlying benefit, but the potential cost and the staggering liability of indexing the underlying benefit is so scary to most employers that there is no way that most employers are ever going to voluntarily do that.

My company has come up with a program which we think is a good third alternative to those two approaches, and Senator Chafee described it a bit this morning. We call it ORBIT. That means "optional retirement benefit income trust." A few other companies have similar programs, and many other companies have expressed interest in this, depending on how some current legislation that is pending comes out.

Basically it's a program that provides for the purchase of an annuity at the time of retirement that in effect indexes an individual's retirement pension by a fixed percentage—in this case, 3 percent compounded annually—for the next 15 years, which means that in the 16th year that individual pension is going to have increased by 56 percent.

Now, the cost of that annuity, the way this program is designed, is to be shared 50-50 by the employee and by the company, the employee's funds to come from the 401 savings plan in the company, which is matched dollar for dollar on the first 5 percent. It has other features, such as spouse's benefits and refund features in the event of death, but basically that is the program.

It has advantages we think over the ad hoc approach that many of us have been providing for the last several years in that it is more certain. One can depend on it. And it removes some of the dependency that one in retirement must have on the continued good will of an employer to provide those kinds of increases.

It has advantages over the indexing in that it's going to be less costly, and, frankly, more employers are going to be more encouraged to implement such plans than they ever will in indexing the underlying basic pension. We think it's philosophically sound because it does encourage one to take some responsibility themselves for their retirement by not only encouraging savings but providing an effective mechanism to use those funds once they do retire.

There are some problems. Unless the company share of those funds is funded through a tax-qualified plan, that funding for the corporation becomes a taxable event for the employee. The difficulty in funding through a tax-qualified plan, particularly in a defined-contributions plan, the current law prevents us from making a large contribution at or near retirement into a tax-qualified plan, because of 415 limits and other kinds of requirements.

There is legislation before the Congress that will provide certain exceptions to the current law and allow such programs to move forward.

This legislation is before the Congress as S. 1066, introduced by Senators Chafee, Bentsen, and Baucus in the Senate, and H.R. 4530, introduced by Representatives Kennelly, Pickle, and Archer in the House.

In the past, and here today some have criticized private pension systems for not providing post-retirement benefit increases, and, given the law, we think this is unproductive and unjustified criticism. We hope that those critics take the time to learn more about this issue, and join us in our efforts to convince the Congress to provide the legal framework to encourage these kinds of adjustments.

Thank you very much. [Applause.]

Mr. HARRIS. Thank you, Mr. Rutherford. I was told that anybody who has questions can submit them to Linda Josephson who is standing at the back door, and, if we have time, we will take all the questions we can handle at the end of the session.

Our third speaker this afternoon is Daniel Halperin, who is a professor of law at Georgetown University Law Center and counsel in the Washington office of Ropes & Gray. Mr. Halperin will discuss integration.

Mr. HALPERIN. Thank you. I agree with the remarks that Senator Chafee made earlier that dealing with integration is probably the single most important step that we could take in improving the equity of the distribution of benefits from tax-qualified pension plans.

Now, it's a complicated subject and it's easy to get lost in the maze of technical details in the present regulations. On the other hand, I think that the policy issue is relatively easy to understand. What we are talking about here is the goal of the special tax treatment of the so-called qualified pension and profit-sharing plans which we have heard a lot about today.

You have to ask yourself, in thinking about integration, what goal did Congress have in mind in establishing this preferred tax treatment?

It seems to me that if one supports the current integration rules, you have to believe that the concern was the high-income individual, those that were earning above the Social Security wage base, and that what Congress was trying to do was facilitate earnings replacement for these people at the higher wage levels equal to what Social Security provides at the lower wage levels.

Such plans would get special tax treatment even if they made no provision at all for the lower paid individual.

Now, this happens because integration means that in testing for discrimination, one looks at the combined benefit from both the employer plan and Social Security. As long as that combined benefit is no greater for the higher paid than it is for the lower paid, the special tax benefits are available, even though the low paid individual may get his entire benefit from Social Security and nothing at all from the employer plan.

To develop that a little bit more. Since, as we all know, Social Security provides higher benefits at lower wage levels, and no benefits at all above a certain point, integration means that private plans can do the opposite, provide no benefits below the Social Security wage base and higher benefits above the Social Security wage base.

Now, it seems to me that the goal of the special tax treatment cannot be as I have just stated. It has to deal with the potential inadequacy of retirement income for low- and moderate-income employees. What we are trying to do, I think, by the special tax treatment is encourage establishment of adequate retirement income for these people, not merely to the level of Social Security, but hopefully enough to permit continuation of their preretirement standard of living.

A plan that does not move toward that goal should not be tax-favored.

Now, there is a role of integration in this effort, because it does seem to me that if we don't allow integration at all, we may have overpensioning or oversavings for retirement at the low-income level.

Now, I think it is rational to take account of Social Security in deciding whether there is adequate income for retirement, and it is not sensible to force people to save toward a better postretirement standard of living than they are able to afford while they are working.

Therefore, since Social Security provides a greater proportion of preretirement income for the low paid, a private plan that achieves full replacement for the high-income people and gave the same proportionate benefit to the low-income people, would give the lower income people too much, at least if we ignore indexation for the moment and not worry about people with a short career.

Certainly, if a private plan, say, provided 80 percent of income across the board for all people in the company and ignored Social Security in doing that, the low-income individual would end up postretirement with more money than they had preretirement. And I think integration is appropriate to prevent such overpensioning.

And that seems to me the limited role it should play.

Now, there are various ways of accomplishing this. There was an administration proposal in 1978 which was really an indirect way of achieving this goal, and I think it had a couple of byproducts that seemed like a good idea at the time—it was hoped that it could lead to simpler rules, and it was probably more favorable to the high-income individual than a direct approach to the problem.

But it is not the only way that one can solve the problem. One can certainly approach it more directly. And if you approach it more directly, I would say that qualified plans should be required to provide equally for employees at all wage levels; in other words, not be permitted to take Social Security into account at all it testing for discrimination, until the combined benefit from Social Security and the private plan equals full replacement at the lower wage levels. The meaning of full replacement can be left to further study, but presumably it is at least 70 or 80 percent of preretirement earnings.

If that is achieved, if we have full replacement for the low-paid, I see no objection to permitting plans to move toward that level of replacement for the higher paid without overpensioning people at the lower wage levels.

But the use of integration to totally freeze out the lower paid employee or provide smaller benefits to that group from the private plan before they achieve full replacement is a different story, and, to my mind, objectionable.

I think when we have the kind of integration rules that we have today and are not willing to face the problem directly, we tend to get ad hoc solutions like the minimum benefits requirements which came in with TEFRA, which I think are designed very roughly to accomplish the goal that I have been talking about, full replacement at low-income levels from the private plan.

But they do so in a very ad hoc way. I am sure they leave a lot of employees well short of full replacement, and probably, on the other side, may even provide too much in a few cases.

Looking at the problem directly and trying to determine the qualification of a plan on the grounds as to whether it is meeting the goal of adequate replacement of preretirement income is something that we ought to get on with, and it is time to look at the integration rules.

Thank you. [Applause.]

Mr. HARRIS. Thank you, Mr. Halperin. Next we will hear from Paul Jackson. He is an actuary with the Wyatt Co., and he is going to discuss pension losers legislation.

Mr. JACKSON. For the purpose of this discussion, I would like to define a pension loser as an individual who lost a vested pension right at plan termination that occurred before ERISA was passed.

To set some background, what were private pensions like pre-ERISA? Well, for one thing, they were more private. But pensions mean many things to many people, so I would like to give you three illustrations that describe some of the plans that existed then.

When I started to work for the Aetna Life Insurance Co. in 1949, they didn't talk about their pension plan in the preemployment process. They had an informal plan. When an employee reached the point where he couldn't work, whether he was disabled or too old, he took his bank books and so on into the retirement committee, told them what he had, told them of his future financial obligations; they estimated Social Security and decided what would be a reasonable benefit.

When the Aetna installed a formal retirement plan in 1957, nobody really objected because the plan had vesting at 15 years service and age 45, and when I terminated employment at the Aetna with 15 years service and age 40, I didn't object that I didn't get a pension either. It seemed perfectly fair to me: Pensions were for old people then.

The second case is Studebaker. Studebaker put in a plan in 1950 with a benefit unit of roughly $1.50 a month per year of service. By 1962, they had negotiated the benefit up to $2.80 a month per year of service, and they closed their automobile operations in the United States and terminated the plan.

The money that was then in the plan was applied—and this is typical of pre-ERISA terminations—it was applied first to make sure that the people who were retired and receiving benefits got their full benefits; that was done, annuities were purchased.

The second step was to move to the group that was age-eligible for early retirement but still working; age 60 with 15 years of service—that group got 100 cents on the dollar.

When they moved to the third group, the people who had vested rights, 15 years or more of service who were under age 60, there was only enough money to give them 15 cents on the dollar. That group is the pension losers that we are talking about.

But I would merely observe that in the process they, the pension losers, through their representatives, who negotiated the contracts for them, agreed to step aside when there wasn't enough money so that somebody else could have it.

The third illustration that I would like to give you of pre-ERISA pension plans is the pension plan operated by the International Brotherhood of Electrical Workers for its members. This is a member-pay-all plan with no employer money at all; it started in 1927 when they took their 50-cent monthly per capita amount that was going into the strike fund and made a pension plan out of it. Somebody back then decided that ought to be enough to support a $50-a-month pension. Whoever it was was off by a factor of roughly 10. [Laughter.]

The plan paid its benefits all the way through the Depression, and by the 1940's they were increasing the per capita; by 1964, when I was associated with the plan, the per capita had reached $1.60 per month, and the plan was going broke.

Now, Joe Keenan, who was the international secretary of the IBEW, and one of the giants in the labor industry, went to the 1966, convention of the IBEW with proposal to fix their members' pension plan. And his proposal put on the floor of the convention was to increase the per capita dues from $1.60 a month to $10 a month. It was a foolhardy political move.

Joe told the convention, though, that they had a moral obligation to those workers who were now old who had gone on before, who had organized the industry, who had negotiated good wages, better working conditions, and so on, that the newer members enjoyed when they first came to work. He also told them that it is the difference between a union and a brotherhood—brothers look after each other. In other words, it was the right thing to do.

So all of these pension plans were bad things, the pre-ERISA plans; they hurt some people, that is true. But the people who were hurt were hurt by helping others.

In 1960, the Supreme Court, in *Fleming* v. *Nestor,* talking about Social Security, said it would be wrong to engraft upon Social Security the concept of accrued property rights because it would deprive it of its flexibility and boldness in adjustment to ever-changing conditions which it demands, and which Congress probably had in mind when it expressly reserved the right to alter, amend, or repeal any provision.

With that sort of an attitude at the Supreme Court level, how could ERISA possibly get passed? Well, ERISA was passed, and one of the reasons that it added property rights and added insurance was the pressure that was brought to bear on Congress by the pension losers.

When the insurance program was set up, of course, there were 250,000 pension losers who were just plain left out.

Now, if we had a national disaster in America, if we had a flood or something that left a quarter of a million people homeless, we would not set up a fund into which we would put money and invest it, which would prevent that sort of problem from happening in the future. We would do something about it.

Pension losers got the legislation passed and then they are left out.

Today's worker, in some cases, may be able to say, "When I retire, every penny that is taken from my pay for pensions will be there for me." Well, if he can say that, he can thank the pension losers for it.

Ten years after ERISA, a lot of things have changed. Joe Keenan is no longer with us. The PBGC has $1.1 billion, and has asked for an increase in premium rate that has the present value of $1.62 billion more. But there is not even a crumb left over for the pension losers.

There are now 170,000 of them left; every day that passes 20 of them die. The pension losers legislation would give these people $7.50 a month for each year they were covered under a private retirement plan. It adds up to about $50 million. And there are many people who have asked with the deficits we now have, is this expense necessary?

Well, for me, my God tells me that what is required is that I act in a just manner and love mercy. The pension losers have both justice and mercy on their side. It's the right thing to do, and sometimes we support causes merely because they are right.

Thank you. [Applause.]

Mr. HARRIS. Thank you, Paul. Our final speaker will be Phyllis Borzi, who is pension counsel for the House Labor-Management Relations Subcommittee.

Phyllis.

Ms. BORZI. Thanks, Tony. I want to start with my usual disclaimer, which is that what I have to say today represents my views and not the views of the subcommittee or its chairman, Bill Clay.

Also, those of you who have heard me speak before recognize that this is not my real voice; this is my cold voice.

The focus of this conference has been on critical issues of private sector pension policy. You have heard discussed here today issues of both current and future interest relating to ERISA. Although ERISA was a landmark piece of social legislation, it didn't solve all the problems of the pension plan universe, nor could it have, nor should it have.

In the few minutes I have here today I would like to raise some broad issues for you to think about.

In my opinion the most serious problem confronting us in our effort to provide an adequate retirement income for our citizens is the problem of coverage. Only about half the private-sector workers today are covered under private pension plans. That percentage has remained relatively constant over the past 25 years, although the growth in coverage was significant in the forties and fifties.

If you believe in the theory of the three-legged stool of retirement income—Social Security, private pensions, and individual savings—then it ought to be of great concern to you that coverage under pension plans is stagnating.

Where are we likely to find the greatest concentration of workers without pension coverage? Why did their employers chose not to provide pension benefits for them? And what can we do about it?—are three critical questions that we need to answer.

Who are these workers anyway? Well, the President's Commission on Pension Policy, the Carter Commission, found that workers in low-paying service and retail jobs, who are unionized, or who work for small businesses, are most likely to be without pension coverage. Why don't these companies have pension plans? Lots of reasons. Perhaps the most important one is cost.

For small businesses, profit margins are tiny, and the cost of setting up and administering a plan is comparatively greater than for large businesses. For many other businesses, various types of tax shelters are available for management employees, and the bother and cost of setting up a pension plan in which the employer is required by law to provide benefits to a broad cross-section of employees, not just the highly compensated, may not be worth it.

Another reason to avoid adopting a pension plan is the relative riskiness of the current business climate.

Sadly, too many businesses in the retail and service industries, and far too many small businesses, just won't be around a few years from now when it's time to provide those benefits.

Well, what can we do about it? How can we increase the number of pension plans and expand the coverage of our workers? Here is where we need a lot of help from many sources, especially those of you who are here today.

The private pension system's original growth can be traced in significant part to the collective bargaining process and the need to provide pension benefits as part of labor-management relations. Over the years, it has been nurtured and encouraged through a Federal policy which combines both tax incentives and worker protections.

The balance that was struck in 1974 when ERISA was enacted was a delicate one. There was no mistaking what ERISA was all about: if you want to get the tax advantages, you had better provide those benefits that you promised. ERISA was a marvelous success story and a landmark piece of legislation, but it didn't help everyone. It only helped those workers who were covered by private pension plans. It didn't help workers in State and local pension plans—those plans were specifically exempt from ERISA. And, as many of you know, I think they need some basic Federal reporting and disclosure and fiduciary rules.

It didn't help Federal employees. It didn't help workers covered by church plans, who are permanently excluded from ERISA's protections through a little-noticed amendment to the 1980 Multiemployer Pension Plan Amendments Act.

But, most seriously, it didn't help those workers whose companies had no plan at all.

Unfortunately, in the past few years, little has happened which would encourage companies to set up new pension plans. Instead, we have watched Congress repeatedly change the ground rules under which employee benefit plans must be operated, to the point that all of our heads are spinning in confusion.

I don't think this is the kind of climate in which we can foster either the growth of employee benefit plans or an expansion of worker coverage. Important issues of pension policy need time to be identified, studied, and discussed. And legislation in this area needs to be drafted carefully and in the open, not unveiled one week and enacted the next.

As we move from the discrete participant-oriented concerns that were the engine driving the passage of ERISA to the broader consideration of what makes good pension policy for society as a whole, we cannot adopt an ad hoc or piecemeal approach, nor can we afford to let pension policy be driven by the need to reduce budget deficits.

The problem, of course, of reconciling this rhetoric with political reality. Pension legislation is tough to enact. Those of us who work for the House Education and Labor Committee know better than most.

We must work for bipartisan consensus, for that is the road map to success, and yet that consensus is so elusive that rarely does any legislation, even necessary legislation, get passed.

On the other hand, the coattails of tax bills provide a seemingly fail-safe route to enactment, but the relative rapidity and secrecy in which those bills win passage offer little opportunity for the kind of careful discussion and debate so necessary for good legislation in the pension area.

So what are we to do? The future of employee benefits, I think, is inextricably bound to the answer to our coverage problem.

If we had an actual national retirement income policy and not just a patchwork quilt of incentives and standards which, through benign neglect have evolved into sort of a policy, our task would be much easier. The future of employee benefits rests in the hands of all of us. We should sit down together and draw up a plan for the future which will take us into the next century and beyond. We can't afford not to do it. If we are unwilling or unable to tackle the hard issues of how to get to the rest of the work force who are not covered by pension plans, then we are going to have to confront the issue of how to expand Social Security to pick up the slack for those workers.

Neither is an easy task, but I suspect the latter is nearly impossible, given our projected future budget deficits. We are committed to the development of a thriving private pension system as a supplement to Social Security, but I am afraid that many aspects of recent employee benefit legislation may be counterproductive to achieving that goal.

In our effort to enhance the benefit security of workers, we may have provided even greater disincentives to adopting new pension plans than ever before.

It is appropriate in this 10th year of ERISA to look back and to look around before we plunge forward into new legislative arenas. We need to examine what has been done over the past 10 years assess our progress objectively.

Most of all, however, we need to put aside our partisan differences and work together, Democrat and Republican, liberal and conservative, House and Senate Members, labor and tax committees, labor and management, retiree and active worker, all toward our common goal.

The future of employee benefits depends on our willingness and ability to work together for positive change. I think that is a challenge we are up to, and if we care about the future of employee benefits, we had better get started right now. [Applause.]

Mr. HARRIS. Thank you, Phyllis. We are going to move on to the second part of our session now, which is the respondents who get to offer their comments on the five presentations you just heard.

Our first respondent is going to be Theresa Stuchiner, who is a partner with Kwasha Lipton, and she heads that firm's legal department.

Theresa.

Ms. STUCHINER. I guess I first have to apologize for being a lawyer.

My first comment, before I get into a question, is to say to a great extent I support wholeheartedly Phyllis' conclusion. I think it's terribly important that we understand that this is a difficult subject matter that we are dealing with, that we must discuss it, discuss it carefully and in the open.

I think the benefits community, the country as a whole, would have profited from more open discussion for a longer period of time of some of the issues that have surfaced in the recent legislation.

I particularly want to support the comments that were made by Dan Halperin with respect to integration. And particularly the aspect that we must be careful that in our desire to achieve equity and nondiscrimination, we don't end up by overpensioning, that is, we need integration simply to avoid the overpensioning, but we should not have integration utilized to the extent that it cuts people out of private pensions. We need supplementation, and that is what is think should really be the goal of integration.

I am going to direct my question, comment and question, to Edith, because she made a plea for questions and because I am a very old supporter of Edith Fierst; I told her earlier she was one of my first pleasant ERISA experiences when I met her at the Departpartment of Labor.

The question really is, in part, in a way a comment—it gets back to something Phyllis said in terms of discussion. It's so easy to accept the concept of 100 percent vesting after 5 years of service, and perhaps that is the way we have to go to. But in our discussions, shouldn't we give some consideration to alternatives which perhaps might be age-related, bearing in mind that we have different types of plans. It's very easy to talk about that type of vesting, 100 percent after 5 years of service, when you are dealing with defined-contribution plans, and, for the most part, they are there already, if not more rapidly vesting than that standard.

But when you start thinking in terms of the defined-benefit plan, shouldn't we perhaps give some emphasis to the older employee?

Ms. FIERST. I don't think so. It seems to me that a pension has to be earned at every part of one's career. It is certainly true that what you earn when you are 20 years old is going to be a piddling amount unless we find some way of making it proportionate to what you earned later on—and this really gets back to the portability question.

Nevertheless, I just can't see weighting the pension arrangement differently from the way it is now. The statute properly prohibits back-loading. Good policy shouldn't discourage employers from hiring older workers.

I think earning a pension should be a lifetime program, as is Social Security.

Earlier, I said that there were a couple of problems about portability, and this question feeds right into one of them, the fact that if the present value of a pension is determined in order to roll over the right amount into an IRA or some sort of a national plan, the initial computation must be discounted for the earnings that somebody estimates would have been made if the money had been left in the pension plan for the time between the person's leaving and the person's retirement age.

And that means that in order for the individual to get an equivalent pension, the earnings from the IRA have to be at least that good. They ought to be better. And the rollover procedure puts the risk on the employee to make the decisions, I suppose, or whoever manages the IRA or the national fund, to live up to this promise.

It's a difficult question, it seems to me, whether most people can anticipate what investments will do well.

Mr. Harris. Thank you for that response, Edith. We are going to move on to our next respondent—I am concerned with time. That's Robert Stone, who is a senior corporate counsel in the office of the senior vice president and general counsel of IBM.

Mr. Stone.

Mr. Stone. Thank you very much, Tony. One of the lessons that I think can be learned from a panel this large, with subjects as diverse as the five that were presented here, is that ERISA is a multifaceted polycentric beast and can be looked at by many, many people in many different ways.

And we must remember—and here I give as many kudos as she will take to Phyllis—we must remember that there is nothing simple, there is no snap solution to the problems that any particular industry or any particular employer or any particular labor union faces in this area. For example, the ORBIT solution which Sun has proposed is a brilliant idea, and I am sure it will work well for them and may work for many other industries; it may not work for my company, and for different reasons—we are in a different industry, our growth rates are different, our future objectives are different, our future employee populations are likely very, very different.

So what's good for one particular individual is not necessarily good for everyone else. We have had problems in this legislative arena since the day ERISA was enacted, since the day I think I was sitting in Chicago at an ALI-ABA program in 1973, and Dan Halperin was explaining H.R. 4200, which was one of the predecessors of ERISA. The legislative piecemeal approach which has been taken so far has resulted in mass confusion.

We do have a Retirement Equity Act because this was an election year. It is a bill which creates enormous problems in terms of its implementation, notwithstanding its laudatory goals. We have to guard against that type of approach in the future, and the back room deals in the smoke-filled rooms.

My question, which is really to Phyllis in particular, and to anyone else, is: How can we try to approach the next Congress, since, let's face it, none of us wants to see any pension legislation between now and the end of this year—how can we try to approach some of the basic things which have to be done? Let's just take title 4 reform for the single-employer constituency—how can we make the fixes which are clearly needed without having the cabooses coming out of the closets to be added to the only choo-choo train in town, such that we were able to get basic reform legislation passed this year? Is there a way to develop some consensus within the House and Senate labor and tax committees to let us accomplish something which needs to be accomplished without having to answer everybody's wishes at the same time?

Ms. **Borzi**. Well, some have told me that one way to do it is to have lots of trains on regular schedules leaving the station, but since we have been working for 4 years on single-employer legislation—and I wouldn't say that we have too much consensus—I haven't given up on the process. The real problem I see is that all of us—and I include myself in this as well, because none of us is immune from this problem—all of us are far too parochial in our interests. I think that in order to get good legislation, people have to realize what you said at the beginning, and what Senator Chaffee certainly said, that this is multifaceted, multidisciplinary legislation, and all the interest groups need to work to find common goals, find common ground, and work together to achieve them.

But I think it's unrealistic to think that we are going to get that kind of behavior until two things happen: First of all, there has to be a greater level of trust among the various groups—don't ask me how you get that, but I think that's important; and second, I think there needs to be an understanding, a clear understanding, on the part of the relevant committees of jurisdiction within the House and Senate, that the issues are not all one-sided, they are not all tax issues, they are not all labor issues—and that one set of issues is not necessarily more important than the other. You have to have people who are willing to sit down and say I may be an expert in this area, but there might be some implications of this in another area, and let's reach out to those people with expertise in that area and get everybody together.

Now, I have been accused for my entire life of being hopelessly naive. I have been on the Hill for 5½ years, and either I'm pretty stupid or I am still hopelessly naive, because I think that process can work. I just believe that people need to be more committed to making it work.

Mr. **Harris**. OK, thank you, Phyllis. We are going to move on, and if you have any other questions, we will come back.

Our next respondent is Russ Mueller, who is the actuary and minority legislative associate on the Labor and Management Relations Subcommittee in the House. Russ.

Mr. **Mueller**. First, an observation. We have heard a lot today about the call for a national retirement income policy. We have also heard about a number of specific proposals for future legislation. My question is, how do these various legislative proposals fit into this overall retirement income policy? Perhaps we ought to consider whether we are putting the cart before the horse. It may yet be demonstrated that we need an overall guiding framework, and the basis for my question fits into this—that is, with respect to vesting, portability, integration, the topics that Edith has brought up. Before getting your response, Edith, I do have some observations about your proposal for earlier vesting. Earlier vesting—are we just setting up a kind of a pinmoney syndrome? From personal experience, I can tell you that after having short service with several employers and having taken those, quote, retirement benefits, unquote, and having used them for current consumption, they are not around for retirement income security. We have raised the limitation on cashouts now under the Retirement Equity Act to $3,500; more and more defined-benefit plans will cash out those benefits.

The question is: How does this increase retirement income security? The same question can be asked about portability.

Employees think of portability as one thing. I believe it was Mike Gordon who described the expectation that their early service will be added to future service and their pension improved based on their final pay and earlier service.

Others think of portability, and apparently the VIP bill will follow this approach, as the "cash following the person." But how does taking that lump sum, which, by the way, not only is discounted for interest but mortality as well, so you have to overcome by means of future earnings not only the interest but the mortality discount—how does that increase retirement income security?

I am not suggesting this goal is impossible, just difficult. There have been other suggestions and alternatives; some of the options that have been thrown on the table are—should the employer be required to cash out, should the employer not be required to cash out, should there be a roll-over to an IRA or to a national central portability fund, should roll-overs be locked in through the IRA arrangement or some other kind of an arrangement, and should those accumulations be required to be turned into a stream of retirement income at the end of the line?

These are questions that certainly are up for discussion. I would ask the question, then: How does this increase retirement income security?

Ms. FIERST. I think you have raised a number of extremely important questions, and I wish I had the answers to half of them.

It does not solve the problem, however, to say to people, well, you don't get anything. I agree that to require 5-year vesting, for example, and not to have a provision for rolling over, makes an impossible dilemma for employers: they can't possibly chase down after people 30 years later to pay them what may be the equivalent of 20 cents a month when the cost of a stamp is about to go up to 23 cents or 22 cents.

I do think that portability and the rolling over idea is the one that we have to develop. I am also concerned about the extent to which people who cash out their benefits spend them. This is a serious problem, by the way, for the Federal employee who has no option to reinvest in an IRA. It seems to me one thing that could easily be done by legislators would be to permit those Federal employees who leave before retirement age to take their money out and put it into an IRA. They can't do this today because it's their own money; they have paid tax on it. It seems foolish reasoning, difficult to understand, but this policy makes it financially punitive for most Federal employees to leave for another job in midcareer.

But I think the problems that Russ has just raised are extremely important, very difficult, and problems that we must address.

Mr. HARRIS. Thank you, Edith. Ed Davey is our last respondent. He is executive director and general counsel of the Association of Private Pension and Welfare Plans.

Ed.

Mr. **Davey**. I guess I have as much faith as Phyllis might point out in terms of the way things are currently structured for us to resolve these issues—and I guess I would like to pose my question to both Phyllis and Dan, and to Edith. The following:

It seems to me today that you really can divide the issues into two spheres, the so-called equity ledger we are talking about on the equity side-vesting, integration, portability; and Senator Chafee has raised those issues. And I would suggest to the people in the room that those issues will be resolved in the next year or two. And I would suggest that, even based on discussions that have been going on and those that are involved with the pension rights, the labor unions and even business—that we will be able to come to some consensus on those issues. Either we will be forced to, or the legislative process will be moving in that direction. And I don't think that will be the end of the story.

It seems to me the more fundamental issue—and I think Senator Javits was alluding—not alluding directly—and I guess it's so fascinating to see the importance of political personality and drive and will, which we are so lacking currently, to resolve some of these issues, and I think it's a testament to him—but the more fundamental issue is raised by Alicia Munnell and I think it was Peter Ferrara, in that what we are really talking about, are we going to go toward—continue with group arrangements or are we going to individual accounts across the board?

And that is where the struggle, the philosophical struggle, is going to come in the next year or two. And I guess what I am saying to—or my question is: is in Congress now, both structurally in committee, in the committees, and given what I perceive is the lack of cooperation between the labor and the tax committees, the ability to resolve this philosophical conflict of moving in the direction of individual arrangements as opposed to group arrangements?

Ms. **Fierst**. May I say one sentence? I know I have spoken a lot.

Mr. **Harris**. Sure.

Ms. **Fierst**. I think individual arrangements will not work; they are basically a benefit for the rich, as has been said by many speakers. Nice as IRA's are for the rich, they are no good for the poor; they need something different.

Mr. **Halperin**. Well, I certainly agree with what Edith just said, and I suppose a lot depends upon the attitude of the outside communities. I think that we have seen in recent years a movement toward allowing special tax benefits for individual arrangements, which I don't think can be rationally defended by anybody. And if the business community, or some aspects of it, are going to continue to say any tax benefit is a good benefit, regardless of the public policy behind it, then it's going to be very hard to get the kind of consensus that Phyllis is talking about.

I think that what we need is the posture where people will recognize that we can only afford sensible things and are willing to work with the staffs and the Congressmen to achieve that. And if that is perceived on the Hill, I think it will happen.

But I think up till now there hasn't been that kind of willingness or trust, and I don't know where it starts—but I think it may have to start from outside.

Ms. **Borzi**. And I guess my answer is real short: I haven't the foggiest idea whether or not we are institutionally capable of addressing those issues, because the larger issue is what is our national retirement policy. Clearly, we must have a policy, and it has to come from some place; we have no source of policy now, because we have no titular leaders on these issues. This is not a partisan criticism, it's never been a partisan consideration.

But there isn't any leadership from the administration, from any administration, nor has there been in recent years much leadership from the Congress—and, God knows, there is not much leadership any place else.

I think it's a failure of leadership, and the answer to your question, Ed, depends on whether or not leadership emerges in all the various elements of the employee benefits community.

And I think when push comes to shove I believe the leadership will develop. But if you are going to ask me for a timeframe, who knows?

Mr. **Harris**. Our panel is finished.

Thank you all very much. [Applause.]

[Due to constraints of time, the following statement of Reuben Schafer, New York, NY, was submitted in lieu of a question directed to the panel:]

PORTABILITY-RECIPROCITY

(By Reuben Schafer, New York, NY)

Portability-reciprocity (or whatever else it might be called) must be a high priority for our legislators.

This subject addresses the immediate needs of millions of workers (not executives) who, because of circumstances beyond their control, do not remain in a single job during their lifetime as workers.

As an example, take my industry. I am a member of AEA-SAG and AGTRA—each with separate plans—each requiring 10 earned years for a pension. An actor may earn 27 years as a performer (9 in each area) and at age 65—no pension—ineligible. That is only one example.

If a survey was made to ascertain the number of working men and women who change jobs, I am certain that the number would be astronomical.

Now to my point:

In 1965, the President's Cabinet Committee called for a National Portability Clearinghouse.

In 1974, ERISA passed without the portability provision even though it was part of the original concept.

In 1981, the President's Commission on Pension Policy proposed the same clearinghouse concept. Claude Pepper that same year introduced a bill on the subject. To date that legislation has little exposure. In 1974, ERISA called for a report on portability within 2 years. Where is it?

If the absence of a portability policy is bad for the American workers—how much worse is it for black and other minority workers? Last hired—first fired.

I agree with Mike Gordon. We must not wait for an all-inclusive retirement policy before reciprocity is adopted.

Perhaps Mr. Paul—Mr. Gordon's opponent in the debate—can wait for that millennium. The workers from whom the legal community gets its fees cannot wait.

Session 4

ERISA AT 10: FUTURE DIRECTIONS FOR ERISA AND RETIREMENT INCOME POLICY

INTRODUCTION: SENATOR BOB PACKWOOD OF OREGON (PRESENTED BY JOHN COLVIN, LEGISLATIVE AIDE)

MODERATOR: MICHAEL J. CLOWES, EDITOR, PENSION AND INVESTMENT AGE, NEW YORK, NY

TOPIC: WHAT SHOULD A NATIONAL RETIREMENT INCOME POLICY LOOK LIKE

Participants

William A. Niskanen, member, Council of Economic Advisers, Washington, DC.

Lisle C. Carter, Jr., counsel, Verner, Liipfert, Bernhard, & McPherson, Washington, DC.

Stanford G. Ross, partner, Arnold & Porter, Washington, DC.

Responders

Merton C. Bernstein, Walter D. Coles, professor of law, Washington University School of Law, St. Louis, MO.

George W. Cowles, senior vice president, Bankers Trust Co., New York, NY

Mr. ROTHER. Ladies and gentlemen, we now come to our final panel of the day—"ERISA at 10: Future Directions for ERISA and Retirement Income Policy." We have an extremely distinguished panel here. Senator Packwood was here earlier to have introduced us; he was not able to stay, and he has asked his legislative director, John Colvin, to share a few brief remarks with us to introduce this panel.

John.

Mr. COLVIN. Unfortunately, Senator Packwood had to depart for another meeting. He is sorry that he was not able to speak with you in person, because the question of retirement policy and employee benefits in general is of particular importance to him.

In light of the topic, the future of employee benefits, I would like to speculate a little bit about what to expect in the next 18 months or so concerning employee benefits, and to go through several specific areas.

First, we would all recognize that employee benefits will be at the center of whatever tax policy debate there is next year, principally because of the significant amount of revenues involved. For pensions, the revenue lost from the exclusion of contributions is $58 billion, and for health insurance, $25 billion; for life insurance,

$3 billion; and for a number of the smaller ones, such as educational assistance, prepaid legal, day care, you are between $50 and $100 million per year.

So no matter what direction you think tax legislation will take next year, employee benefits will be at the center of it. If you are talking about a flat-tax bill, it will be at the center, because the leading flat-tax bills or progressive flat-tax bills all make taxable most employee benefits other than pensions.

Some of the flat-tax bills do restrict pensions. And if the purpose of legislation next year is simply to raise revenues rather than adopt a flat tax, again you have employee benefits being a central part of the agenda because of the revenues involved.

The possibility of a 1985 tax bill either for simplification or for revenue-raising occurs in the same year when a number of specific employee-benefit issues assuredly will arise as major concerns anyway, because of effective dates or expiration dates. Let me go through a couple of these. I would like to mention six, just to give you a feel for what is going to happen in the next 18 months in the area of employee benefits.

The first is educational assistance. As most of you probably know, the law making educational assistance a tax-free employee benefit expired December 31. It is Senator Packwood's hope that it can be extended before the adjournment of Congress this year. This is particularly important as a means of encouraging employees to participate in employer-sponsored training programs.

One current issue relating to educational assistance is whether FICA and FUDA tax will be made applicable to it. The possibility of that arose in the conference on the 1984 tax bill, just finished. Adding FICA and FUDA tax to educational assistance would raise revenues for those trust funds, but it would be with the effect of considerable increase in cost in operating the training programs, and would no doubt result in decreased training opportunities for workers.

A second issue that I would like to mention is prepaid legal services. Legally, it's a lot like educational assistance in that it's an exclusion from income for prepaid legal services provided for employees. The law that makes it tax free to workers expires at the end of this year, December 31, 1984. And, as with educational assistance, it is Senator Packwood's hope that that can be extended in 1984. Here, again, the question of FICA and FUDA taxes may arise.

The third area that I would like to mention is general fringe benefit questions—and this is something that is frequently out of the scope of benefits planners in the strict sense, but I just want to mention it briefly. The next tax bill contains a number of rules clarifying how fringe benefits—like discounts, airline passes, athletic facilities, and employee cafeterias—are to be treated. Those rules go into effect at the end of this year, and between now and then I would expect the Treasury Department will give guidance on interpretation of some of these new rules. As we get toward the end of 1984 and into the beginning of 1985, and the Treasury policies are clarified, I expect that will be an important issue with a number of companies.

The fourth area that I would like to mention is cafeteria plans. These were the object of considerable debate in the conference on the tax reform bill this year. The principal date relating to cafeteria plans is July 1, 1985, in terms of what to watch for in the next 18 months. On July 1, 1985, authority for companies to operate flexible spending arrangements as part of cafeteria plans runs out. They were given a 1-year lease on life by the Tax Reform Act of 1984.

In the view of cafeteria plan critics, this was a 1-year grace period for orderly termination of flexible spending arrangements. In the view of supporters of cafeteria plans, like Senator Packwood and many of the companies that have them, it gives the companies 1 year to make the case to Congress that flexible spending arrangements should be considered, should be continued. And so that is 1 year of opportunity to make that case to Congress.

And the kind of case that you are looking for—for example—is the impact on health insurance costs of flexible spending arrangements and cafeteria plans. Within individual companies, are you finding that people are accepting lower levels of health insurance as they go into cafeteria plans. If so, that is a possible indicator that cafeteria plans are saving health costs.

Another date relating to cafeteria plans which may be important. On April 1, 1985, the Department of HHS is to publish a study giving its views of the impact of cafeteria plans and flexible spending arrangements on health costs.

The fifth area I would like to mention is VEBA's [voluntary employee beneficiary associations]. These were formerly called health and welfare funds, and these are a little bit like pension funds. These are the funds that a company puts money into to finance health and welfare benefits for workers, such as health insurance, disability insurance, and severance pay, as well as some benefits for retirees like health or life insurance.

There was considerable debate in the Tax Reform Act of 1984 on restricting them, and as a result, several restrictions were enacted. They go into effect December 31, 1985. During 1985, there are a number of issues Treasury will be asked to clarify in regulations—they have already been asked—by the statutory language itself. For example, they will have to set appropriate reserve limits for several of the specific benefits funded by VEBA's, and that will be very significant in knowing how restrictive the VEBA rules are. So those Treasury decisions are going to be particularly important to VEBA's throughout 1985, and afterwards, as they go into effect.

Another date in 1985 relating to VEBA's, February 1, 1985, the Treasury Department is to publish a study on several aspects of VEBA's. One is to look at the question of vesting of accrued benefits for health and welfare funds. The purpose of this inquiry is to examine whether safeguards are needed to ensure that funds in the VEBA's actually go to employees.

To understand that thinking, let me step back a point or two. Defenders of VEBA's in the 1984 tax bill argued that they should remain tax-exempt and adequate funding should be preserved in the future. The critics argued that they were being overfunded and that, while they had the tax advantages of pension plans, they did not have the safeguards. The thinking of many people sympathetic with VEBA's was that they should have the restrictions sufficient to ensure that employees received the benefits, in exchange for the favorable tax rules that they enjoyed, and that with those safeguards they would be on a permanent basis entitled to the same kind of tax structure that pensions have. While that might result in increased complexity for VEBA administrators, it would help preserve them alongside pensions as a permanent form of a secure financing means for employee benefits for workers.

One other aspect of that February 1 Treasury study that I should mention is that the study will look at whether VEBA's are overfunded or underfunded. During consideration of the tax bill, VEBA critics argued that they were being overfunded, giving rise to excess company deductions. The VEBA defenders said that the funding was adequate, and that the companies certainly could not afford to overfund them. That is a question that will also be examined in this February 1 report.

The final issue I would like to mention concerns the date January 1, 1988. That's a long way away, but the reason I mention it is because it relates to pensions. The law allowing indexing of maximum contributions to pensions was deferred until January 1, 1988, by the new tax bill. The limits were originally set in 1982, relating to maximum contributions to pension plans. So now you are looking at a 6-year delay in the increase in those dollar figures before the indexing begins.

Six years of inflation, of course, will reduce the value of those dollar limits, and there may come a point when those dollar limits affect a higher and higher percentage of retirement benefits for workers. While it is now scheduled to go into effect January 1, 1988, there may be two questions that should be raised. The first is, is that soon enough to preserve adequate pension benefits? And, second, will there be another attempt to delay it in 1988, just as there was in 1984?

And I would like to conclude with a reference to Senator Packwood's philosophy about employee benefits. He has expressed this in the many opportunities he has had to speak around Washington and around the country, and also at the employee benefit hearings that he conducted in July.

His philosophy is that employee benefits provide basic social and financial needs for rank-and-file employees in America, and that they have grown in part because of the tax incentives. If we don't have the tax incentives for employee benefits, we may not have the employee benefits. What might happen as a result is the Government may be asked by the public to provide the benefits directly at ultimately much greater cost to the society. Health insurance is an example. Health insurance became a tax-free fringe benefit in 1950, I believe. Before that time, in the forties and then later into the fifties and down to today, company provision of health insurance has become almost universal. As a result, the vast majority of working people have health insurance through the workplace.

If the Government had not provided the tax incentives to do that, and, as we moved into the fifties and sixties, people were unable to meet their own health costs, there could have been enactment of a national health insurance program. Today, in spite of the criticism of high private health insurance cost, it is probable that health insurance provided through the private sector is available at lower cost than if it had been shifted to the Government due to the lack of tax incentives.

As we look ahead to the future, consider day care benefits, for example, which became a tax-free benefit for workers in 1981. There is no immediate call for Government to provide day care. But I believe it was in 1970 that Congress passed a bill, which was vetoed by the President, creating a national system—beginning on a national system for day care centers. If companies can move into this area, perhaps the Government won't have to, and it is ultimately at lower cost to the society and at greater benefit to the individual if it is done locally with plans varied according to local needs, through the private sector.

Thank you. [Applause.]

Mr. **Rother**. Thank you, John, for pinch-hitting at the last moment. Now we will have our final panel of the day.

Mr. **Clowes**. We have drunk deeply of the wine of knowledge today, but I think we have saved the best wine for last. Actually, I think the best wine should have come this morning, because we spent most of the day talking about a national retirement income policy without ever defining what that policy is or should be.

And our panel here this afternoon will make an effort, I think, to look out and see what our retirement income policy for the future should be—at least that was the charge that we were given initially.

Because Mr. Niskanen has to get back to the White House for a meeting, he will be speaking first. Mr. Niskanen is a member of Council of Economic Advisers in the White House, and he is the founder of the National Tax Limitation Committee. He also served as Assistant Director of the Office of Management and Budget.

Mr. Niskanen.

Mr. **Niskanen**. Government officials worldwide have reason to be encouraged by the results of a recent French poll: although 82 percent of those polled believe Government officials are liars, 8 percent are still undecided. [Laughter.]

On the assumption that you are among that remaining select group, I will summarize an alternative perspective to that of my distinguished colleagues, and apparently to that of most of the earlier speakers.

I must say, spending the last hour listening to what I regard as I-wish-we-were-all-wealthier ideas, I am rather depressed about the potential for consensus on some important things that need to be done.

First, some personal views about what the Government should not do. We should not seek to implement a comprehensive national retirement income policy. Individual preferences and conditions differ so substantially at any given time and somewhat over time, that no specific combination of private intergenerational transfers, Social Security, pensions, and personal savings is likely to be optimal for a very large group.

The Government may have an important role to play in making sure that different instruments are available for people to structure their own combination of preretirement consumption and postretirement consumption, but the Government should not, I think, act to constrain those instruments or to necessarily require uniformity in the nature and relative magnitude of the instruments that are used.

Second, I think we should not create a department of income security, by whatever title, with the sole responsibility to administer and to coordinate a national retirement income policy. Coordination is one of those things that always is in the future, it never seems to happen. And coordination on any single policy dimension is almost always insufficient. In the specific case of these issues, pension policy cannot be separated clearly from tax policy, labor policy, welfare policy, and so forth.

Coordination on any one of these dimensions does not require a common administration. Coordination across these dimensions cannot conceivably be achieved by a single agency.

Moreover, I have never understood the conventional wisdom that although competition is preferable in the organization of the private sector, monopolies are preferable in a bureaucracy. But that's a larger issue.

Let me summarize my personal views concerning about what the Government should do.

The primary responsibility of the Federal Government concerning domestic issues in general, I believe, is to assure that the Government itself is not part of the problem. And I must at this point represent some dismay about the number of suggestions that I have heard in the last hour which would have the effect of destroying the private pension system.

As a rule, and to the extent possible, Government action should be neutral with respect to the many types of private decisions affecting employment relations, savings, retirement and intergenerational transfers. In fact, of course, current Government policies are not neutral; they significantly constrain the opportunities for mutually desirable employment contracts; government tax policies in general are biased against the more general forms of personal savings; Government policies of any number of forms encourage early retirement and penalize private intergenerational transfers.

Our first obligation, before entertaining a broader role for the Federal Government, should be to reduce those present activities of the Government that restrict the opportunity and bias the incentives for each individual to make those economic choices that best meet his or her personal preferences and conditions.

The second obligation of the Federal Government is to be a responsible steward of the several retirement income programs administered by the Government. Over the last 50 years, of course, the Government has accepted a responsibility to provide a floor level of retirement income through Social Security and later SSI, to provide several forms of transfers in kind to the aged, such as medicare, and to provide insurance for private pensions as part of ERISA.

These programs are broadly supported and, on a short-term basis, I think they have been unusually well administered.

We have yet to demonstrate, however, a responsible stewardship of these programs on a long-term basis. We face the prospect for a new Social Security or medicare funding crisis every decade.

As we meet today to discuss the future of ERISA, Congress has apparently decided against approving a minimally adequate premium for the PBGC or to close the major loopholes by which the few irresponsible companies dump their pension liabilities on the insurance fund.

In summary, Government should put its own house in order before considering the proposals for broader Government responsibility in the name of a national retirement income policy.

Thank you. [Applause.]

Mr. CLOWES. Thank you, Mr. Niskanen. Our second speaker will be Lisle C. Carter, who is a member of the Washington law firm of Verner, Liipfert, Bernhard & McPherson. He has held numerous positions in Federal agencies, including two terms in the Department of Health, Education, and Welfare.

Mr. Carter.

Mr. CARTER. It's very tempting to launch a debate with Bill Niskanen about individual versus social approaches to meeting national needs, but I think I will confine my remarks to attempting to do what he says cannot be done, and that is to talk more broadly about a national approach to the issue of retirement policy

I am going to speak from the perspective of the President's Commission on Pension Policy, of which I was a member, to provide a framework for what I hope will be, in fact, brief remarks.

At the conclusion of that report, Peter McCullough, the chairman, says:

> The Commission feels strongly that the problems it has identified must be addressed without delay. Major changes are necessary, and it is still possible to make these changes on an incremental basis. The Commission does not suggest that these reforms will be easy, but there is a brief window of opportunity.

The several years that have gone by since that report have obviously closed, to some degree, that window of opportunity. And however one may feel about the steps to be taken and the difficulty of taking them, we cannot help but recognize that the beginning of the 1990's will perhaps be the last time that we will be able to proceed in an orderly way to address the problem of the large babyboom generation. And after that we will be scrambling to find solutions to the significant problems that still remain.

I think it can be said of the Commission's report that we were generally correct in our assessments, but that, if anything, we overestimated the time within which things that we suggested were coming would arrive, and that we were much too timid in some respects in our recommendations.

While progress has been made on Commission concerns on Social Security and extending fairer treatment to women, despite the emphasis on the private pension system, it is yet to be significantly revised. Indeed, as you have heard from a number of speakers, the problems of coverage seem to be worsening and probably are worsening at a rate that exceeds that which the Commission anticipated because of the significant shifts in the economy and in the location of jobs and the decline in the influence of labor unions in relation to the development of pension programs.

There are those who still maintain optimism about the future of coverage, but it is hard to understand from where they derive that optimism.

Not only has the coverage slipped slightly, however one computes it, but the important thing to recognize is that overall coverage—that is what we mean when we talk about coverage being around 50 percent—conceals the fact that at the upper level, incomes of $50,000 or better, coverage is 85 percent, but at the lower levels of income, it is less than 40 percent. So that it is clear that the problems are located in that sector of income distribution where the individual employees have the least disposable income and the least choice.

We have heard from the Senators and other speakers, that private pensions are likely to be scrutinized heavily in the near future. Private pensions will have to justify the substantial support which they receive through tax treatment in terms of how they perform in providing a substantial supplement to Social Security toward development of an adequate retirement income. Private pension supporters will have to demonstrate how we can move toward a system that provides an adequate income for as many workers as possible in ways that make that provision of income the primary purpose rather than other goals, such as provision of tax shelters, and that are neutral for both employees on their work decisions and employers on their business decisions.

Now, while I believe that this system has to be developed within an atmosphere of choice, to the extent that choice can be provided, I think it is a system that has to be developed socially and collectively. I do not believe that we can arrive at a solution to these problems through simply increasing the choice to individuals, because at the power end of the income distribution, where the problems are most acute—and I am not talking about just the very bottom, I am talking about incomes up to $25,000, $30,000—the choices are far more limited than one would assume from listening to those who are advocates of individual programs.

So while I don't attack individual programs and say they should not exist, I do say they have to be moderated in connection with our judgment as to how to approach collectively the problems that confront us. And if cuts have to be made in benefit program, then those cuts should be made first in the individual programs and the savings transferred, to the extent possible, to resolving the problems in the development of broader programs that will meet the needs of those who have moderate incomes and the least choice for themselves.

You have heard at length about suggestions on vesting and portability and integration. And I would support most of those. Without being able specifically to say how to solve each of the problem, it is clear that we have to lower the age, the length for vesting, from 3 to 5 years; we have to address the portability problem, although this is not an easy problem; and we have to deal with this difficult problem of integration which is in effect an unjustifiable transfer from low-income to high-income workers, not piecemeal as in TEFRA, but across the board. Finally, it is quite important to address the need to increase the benefits of retirees in some relation to wage increases.

But to me the most significant problem that has to be addressed, if we are to have an adequate system, remains the problem of coverage. We must find a way to make pension benefits available to a much wider range of workers than is now the case.

I would stress that the burden is very squarely in the hands of those who would justify the private pension system. It's in the hands of the employers, in the hands of those who believe very strongly that the approach to this should be through the private pension system, and not through additions to the Social Security System; not through direct taxation but through contribution programs and tax incentives.

And it is not sufficient for large-scale employers to wash their hands of this problem as largely one of small businesses and look only to the protection of their own programs. They have an investment in the private system, and it is up to them to help in the design of a structure which will make these benefits more widely available.

Now, the President's Commission made a suggestion with respect to a mandatory program at the very lowest level, to assure some minimal provision of benefits in addition to Social Security benefits. If that is not a satisfactory approach to the problem—and I certainly concede that there may be better approaches—then it seems to me up to those who support the private pension system, who believe that tax incentives are necessary for the continuation of that system, to help design a better approach.

In the meantime, however, I would urge strongly that any new voluntary initiatives be specifically addressed to the problem of increasing coverage, and not be addressed to providing greater individual opportunities for people who already have more than enough individual opportunities. Improved or new individual programs should be addressed only to the need to provide incentives for the workers at the lowest end of the income spectrum—the lowest two quintiles—to participate in their own in savings. Broader initiatives should encourage smaller employers, who have the problems of high administrative costs and all that other business risks which they endure—to adopt programs which would provide for their employees.

It seems to me that if we want to give the voluntary approach a further chance, this is the direction to go. I am convinced that if, in a few years, we can find no solution, then only a mandatory approach will do. [Applause.]

Mr. CLOWES. Thank you, Mr. Carter. We are keeping remarkably to our time.

Our third speaker is Mr. Standford Ross, a partner in the Washington law firm of Arnold & Porter. He specializes in Federal tax and administrative law. During 1978–79, he was Commissioner of Social Security. From 1980 to 1982, he was chairman of the American Bar Association's Committee on Social Security and Payroll Tax Problems.

Mr. Ross.

Mr. ROSS. Thank you. I have been here a very long time today and listened to a great many things, and it reminds me of the story of the fellow who studied eastern religions for many years and heard of this ultimate guru who lived at the top of a mountain in a remote part of the Himalayas. So after many years of study, he traveled to India—he hiked, he crawled all the way up to the top of the mountain; and he pulled himself over the ledge, and said. "Guru, I am here to know the answer: What is the secret of life?" And this fellow looked at him and said: "Life is a flower." And he said: "Do you mean, after all these years and all this work, all you have got to say to me is that life is a flower?" And the guru looked back at him and said: You mean life isn't a flower?" [Laughter.]

Addressing the question of what a national retirement income policy should look like is a formidable task, because it can be addressed from many different perspectives. My own perspective is as one who has worked in the Government both on the benefit side, both on legislation and administering Social Security, and on the revenue-raising side as a Treasury tax policy official. I have also lived with both sides as a private practitioner of the law.

I like to think that what I express is a broad public interest, but since what is the public interest lies in the eyes of the beholder, you will have to make your own judgments as to whether you agree with my views on this.

As I see it, a national retirement income policy should have the same building blocks that we presently have, but it should be far better coordinated, considerably more efficient and effective in its delivery of benefits and allocation of costs, and, most of all, it has to be far more fair and equitable.

The present building blocks for national retirement income policy are sound. There is a Social Security/medicare system which is a public system; there is a private pension system; there are institutionalized private savings programs; and there is an SSI program.

I believe that each of these building blocks has an important role to play in national policy, but that every single one of them could stand substantial review and reform and change, and, most of all, much more attention should be paid to how the various building blocks relate to one another in the interests of achieving greater efficiency and fairness.

While this pluralism in the American way of having a national retirement income policy is good, the individual building blocks need to be structured into a whole system that makes more sense than what we presently have.

Before getting specific about reforms, let me say that it is a myth to think that we can define a national retirement income policy once and for always.

A subject like this cannot be static; it will always need to change. If you just think about some of the changes in the role of women in the work force, changes in elderly working habits or desires for retirement, and the forces that those changes set off now and in the future, you can see that you are going to have to constantly adapt your policies.

As of today, my own feeling is that the Social Security program should not be further expanded. I think Social Security already provides substantially more than a basic level of protection, and I feel it would be wrong for it to further preempt private responsibility, individual responsibility for providing retirement income.

The private pension system, I believe, needs continued encouragement and expansion, but it also needs reform and improvement. For example, pensions should really be required to be pensions, not simply tax preferred savings vehicles, and tax incentives should be directed toward achieving the social needs of the country, not strictly individual needs.

I also think that we have to face the fact that there will inevitably be gaps in our system, both public and private, and that the SSI program should be there to help those who fall through some of these gaps.

I think it would be unwise to expect either the Social Security System or the private pension system to replace SSI.

In general, I believe that public expectations for retirement income may be too high, and the demands on programs may be excessive, and much more realism may be needed about what can be achieved by any or all of these mechanisms.

It is important to emphasize, I think, that the Government is at the root of all of these building blocks and is responsible for the shape of the retirement income system that we have. The Government uses its direct taxing power to fund the Social Security program and provides the shape of the private pension and institutionalized savings programs through tax expenditures and regulation. Thus, it is up to the Government to make sure that the retirement system as a whole is adequate and functioning soundly.

Clearly the Government is not properly discharging this responsibility today. But if Government is part of the problem—and I believe it is, with Bill Niskanen—I also believe it is part of the solution, which is the main point on which I think he and I would differ.

I do not think there is any way to get to where we want to be as a society without Government doing a better job.

With respect to the private pension system itself, it is certainly in need of scrutiny. However, just as it would have been wrong to revise the Social Security System last year simply in the interests of reducing budget deficits, it would be wrong to reform the private pension system simply in the interests of ending tax expenditures.

Programmatic considerations and social goals must prevail. Just as the expenditure budget is a tool of analysis and control, and I note that now the Social Security System, due to last year's amendments, will be removed from that budget because of what people thought were the perversions of the budget pushing Social Security reform, the tax expenditure budget is simply a tool of analysis and control. And I think it is not an answer just to label something a tax expenditure; far more needs to be done to address the problems intelligently.

My own view on where we are going to get the reform and change we need in all of these systems is that institutional reform will need to precede substantive reform; moreover, I believe that is should precede substantive reform. We need to provide a broad income security policy focus in the executive branch and in the Congress so that these various building blocks can be reviewed and made to work better, and especially to work better as they relate to each other.

On the executive branch side—and I have gone into this in more detail elsewhere—I would redesignate the Department of Health and Human Services into a Department of Income Security and give it a mandate to look at all of these programs and to provide a policy focus within the executive branch.

The Social Security Administration could operate as an independent operating arm with the Department. There could also be a section to coordinate private pension policy developments.

I would also urge the passing of public employee retirement income system amendments so that those public pensions were also looked at in this comprehensive context.

I would stress that what I am concerned with is creating a policy focus, not an administrative nightmare. Actual administration of ERISA, for example could be left with the Labor Department, the tax laws could be left with the IRS and the Treasury Department, and so forth.

But what is needed is a policy focus in some department of Government so that we will force leadership to evolve that is long overdue on a great many of these issues.

Just in the last few years, and I wish I had more time, mistakes have been made by the absence of a comprehensive policy focus. I believe, for example, that the retirement age issue was botched in the 1983 Social Security Amendments by the failure to consider its impact on private systems and the SSI Program, and I believe that a great many of the private pension amendments in the last two tax bills were botched by the failure to take account of this entire panoply of programs and what is trying to be accomplished by the private system.

But the fault is not entirely on the executive branch side. On the congressional side, the Congress also needs, I believe, to provide a central policy focus, and so I would urge the creation of new committees in the Senate and House, or perhaps a single joint committee, on income security that is something like the budget committees.

This committee or committees could pull together the functions from various of the other committees, like the Senate Finance and Senate Labor Committees, and in the House the Ways and Means and Labor Committees.

I think that if you had a better policy focus in the executive branch and in Congress, we could do much better at getting everything looked at together and getting some program changes that make better sense.

In the final analysis, I believe that the single biggest responsibility of Government on the domestic side is providing income security, and specifically retirement income.

If you add up the various items in the Federal budget, about 50 percent of it goes for this purpose, assuming you consider, as I do, things like veterans pensions, military pensions, Civil Service pensions, along with Social Security, medicare, and the rest to relate to this subject.

Also, one out of four people in our country are dependent for all or most of their support by a check from the Government. It is simply colossal that something this large is so unfocused in terms of assessing the Government's performance and how to improve upon it.

My own feeling, too—and I am going to finish up on this note—is that myths have to be avoided as we deal with these issues, whether they are in the public Social Security area or the private sector mechanisms; there is just too much in the way of cliches and not enough in the way of realism, development of data, and hard analysis.

There is also just too much of this being an insider's game, with experts in lots of particular areas deciding what is proper, and very little communication with the public as a whole.

The most basic reason why I call for institutional reform is I think it is the only way in which the public will be drawn into the policy process, and, ultimately, it will be up to the public to drive the politicians and the political system into a more rational scheme.

Thank you. [Applause.]

Mr. CLOWES. Mr. Niskanen has to leave to get to a meeting. Thank you very much, Mr. Niskanen.

Well, there we have it. Mr. Niskanen feels there is no need for a national retirement income policy, and he feels that the Government should be neutral, although in a way that is in itself a policy. Mr. Carter feels that individual programs must give way to the broader social programs, Government-sponsored and others, if there is a clash between the two, and we should lean more in the direction of increasing coverage than increasing benefits.

Mr. Ross believes that the retirement income policy should have the same building blocks that we have now, but better organized, and organized in a more fair and equitable manner.

To respond to these three presentations, and to ask pertinent questions, we have Prof. Merton C. Bernstein, who is currently Coles professor of law at Washington University, and author of the book "The Future of Private Pensions."

And following him, to save a little time, will be George Cowles, senior vice president and head of the legal, legislative, and regulatory affairs division of Banker Trust. You will notice that George's name is an anagram of my own, with which we have a lot of fun.

Mr. BERNSTEIN. I want my friends to notice that I was seated to the right of the representative of Bankers Trust. [Laughter.]

I think this conference in a way is illustrative of the pension situation in which we find ourselves. At the beginning of the day there were many participants; at the end of the day there are a few who are here to pluck the final flower.

This is a celebration despite the somewhat funereal accoutrements of the auditorium. [Laughter.]

And it's a celebration of the enactment of ERISA, which, at the time, I did not cheer. But I have a question for you: Are you better off today than you were 10 years ago? [Laughter and applause.]

And you are. You personally, who make your living as pension experts. And tonight many of you will go to a formal dinner, dance, and I say to you: celebrate, dance—it may be the *Titanic*. So enjoy it while you may.

The speakers have been telling you all day what the problems are—and they are right. And there are more problems.

There are the problems of coverage, and, just by way of caution on coverage, which of course translates into how many winners there are, let me just point out to you one little detail, because there is hardly more time for anything but little details at this late hour.

In a table originating with EBRI, there is an illustration of the benefit received for a hypothetical group of workers who start work at age 20.

And there is a remarkable outcome. There are turnover assumptions—low, medium, and high. And guess under which set of assumptions there are more pension winners. (I feel like Joe McCarthy, I have it (the table) here in my hand.)

It's for the high turnover. Now, that is utterly remarkable; it stands everything actuaries, and all the rest of us, have thought we have known on its head—but it is achieved by assuming something else, that under situations of high turnover more people are covered to begin with.

So I urge you, when dealing with the roseate prediction of better things to come under private pension plans, pay attention to the details.

Yes, there are problems of coverage, portability, indexing, efficiency, cost benefit. They have all been solved, painstakingly, exactingly, with executive leadership that people were mourning the absence of, a determined Congress which was paying attention, with popular support—it's called Social Security.

And I suggest to you that there is a great deal of misinformation and myth—I endorse the former Commissioner's statement—he was talking about too-high expectations, but I would just like to mention one or two things about Social Security that we heard from a Senator's assistant and a few others.

Social Security, it is said, cannot be improved because of the deficit situation. Now, that has had me scratching for a long time. What in the world does Social Security have to do with deficits?

If you cut the benefits, you don't do a thing to the deficits. Even if you raise the taxes you don't do a thing with the deficit.

The Social Security system is in balance; it is designed to meet its obligations. Who said so? The members of the National Commission on Social Security Reform, including Chairman Alan Greenspan; Senator Dole; Alex Trowbridge, president of the NAM; Bob Beck, chairman of the board of Prudential Life Insurance Co. And so did Secretary Regan when he signed the trustees' report of the Social Security Administration. He says, his report says—I do recommend that he read it—that in 50 years the cash system under all assumptions is in balance and is within close tolerance to actuarial balance over 75 years.

So, please, no crocodile tears for Social Security; but do keep your eye on the ball on what can be done about private pensions.

Now, one little notion there. We have heard a great deal about three-legged stools, a matter that has always amused me. You may look around you—again, this is a very instructive room—there are no three-legged stools. That tells you something about the safety and reliability of three-legged stools. [Laughter.]

But we do have something in our retirement system that has apparently escaped notice—and perhaps it ought to be sent back to the shop: it's a five-legged stool. A five-legged stool? Social Security, private pensions, section 401(k)'s, IRA's, and Keogh's—not a kind word has been said all day for Keogh's. But, again, and EBRI study reports that a very high percentage of section 401(k) participants enjoy pension plan coverage; of course, they all have Social Security—we all take that for granted, like being able to go home when we have to.

A very high percentage of the IRA participants—I think, if memory serves, about 81 percent—also had private pension coverage. It didn't ask about Keogh's, but, of course, Keogh's now, although they were originally supposed to be in lieu of the corporate plans, now can be stacked on top for incidentals like director's fees—you know, the pin money.

I must raise a question of retirement income policy. The first year of IRA's after the 1981 tax act, cost, CBO says, $10 billion in tax revenues. That happened to be the first year in which the Social Security COLA was cut, with a saving of less than $10 billion. And I leave it to the panelists to sort out that question of public policy. Was that a good trade? Did we assign the sort out that question of public policy. Did we assign the proper priority?

No, we do not have a very well-coordinated system. I agree with Mike Gordon that we ought to have an income policy, retirement income policy, yes. We cannot wait for the ideal one, and we have to go along as best we can. But let us recognize the choices explicitly and set priorities consciously and avowedly.

My friends, those of you who are going to dance tonight in celebration, have a good time; you have a job to do tomorrow. [Applause.]

Mr. CLOWES. OK, George, the floor is yours.

Mr. COWLES. Mike and I have agreed that perhaps we are related at some point in the dim, dark past, and one of us had a dyslexic ancestor.

Some very persuasive cases have been made for the need for a national retirement income policy, and Bill Niskanen made a very persuasive case for not having one. And it has various names—some people talk about a single agency and some people talk about national retirement income policies, and I, for one, would be strongly in favor of a top-down well-articulated national retirement income policy.

My own reaction is that what we have today is a bottom-up system where, when there are interagency disputes, policy disputes, they come out of the agencies and go up to the Council of Economic Advisers and they make a Solomon-like decision, and that's policy. But that's bottom-up.

And I think what I have heard a lot of talk about today is top-down. And I think such a policy would include reneutralizing the difference between defined-benefit and defined-contribution plan, and incentives to increase coverage; I agree with Lisle Carter that coverage is one of the major issues.

I was taken with Congressman Erlenborn's suggestion as to explicit adoption of the three-legged stool or the five-legged stool. Clearly it would include flexibility and individual choice. And basically, with those things, there would be an integration of Stan's building blocks.

So I do favor such a policy. I am frustrated, I am mightily frustrated, as are a lot of people, as to how do we go about—we in the private sector—go about pushing to see that that happens.

And in that vein I would put my question to Stan—I am taken with your idea, Stan, I might have used some different terms here and there, but philosophically I am in tune with you—and as a member of the private sector I ask you how would you suggest that we in the private sector go about it? Is it an executive decision, is it a legislative requirement, is it a great hue and cry from the unwashed masses? What do we do to see to it that some at least beginning is made toward working toward a national retirement income policy?

Mr. Ross. That is a very tough question. I think, in a very basic way, the thing that the private sector has to do has already been started. It started a few years ago with the broad acceptance of Social Security, the frank recognition that it was the basic building block for most of the country. And I think that a lot of the battles historically—I mean, if you go way back—we have fought through.

I would note that if this year is the 10th anniversary of ERISA, next year is the 50th anniversary of Social Security. And I think if you can get enough consensus about the building blocks, and the private sector feels secure enough about accepting the public parts of the system, then I think it can push toward helping to bring about some of this institutional change that I have talked about.

But I also would show you one example of how things can go awry. I worked very hard and reached out and got the private sector involved very deeply in the disability income program reforms during the period I was Commissioner, which resulted in the Disability Amendments of 1980. The private sector hadn't really played that much of a legislative role in the Social Security area before, but partly because I asked them to, they did. And we learned a lot and the Congress learned a lot from the private sector, and a lot of private sector people learned a lot about the public policy process.

But what's happened in the last 3 or 4 years is that by the absence of continuity and political consistency with the disability program, we now have one of the largest public policy messes that I have ever seen—and I have been in Washington longer than I care to admit.

So I think what's needed is to get some sort of consistency of viewpoint on these issues out of the private sector, and emphasizing the areas of consensus so that things can move forward and we don't refight these battles of Social Security versus private pensions and private pensions versus IRA's. I don't think we ought to make conflicts where we can find consensus and move on to the next issue.

Mr. Carter. I just want to make a brief comment. I to some degree share Bill Niskanen's skepticism about achieving institutional reform before you move on to do something substantive, and I am not saying this just out of an experience that everybody who has worked in Washington has had or how to get things done in Washington—but that I just don't think we know enough about how to bring about institutional reform, and that becomes an end in itself.

But I do think that the place where we have got to make the first step is in the Congress of the United States. And since we are here we ought to at least address that briefly. There ought to be some willingness for the various committees that have jurisdiction in pension matters to come together in some kind of joint committee arrangement at least to view across the board these urgent issues, and to try to address the question of a national policy.

We simply cannot effect a pension policy if the basic committees that really have control are not talking to each other.

Mr. Clowes. We have run well past our time, and I would like to thank our panel and our responders for a very good session this afternoon. Thank you. [Applause.]

Mr. Rother. I want to thank everyone for being here today and to remind you that extra copies of the print, "Assessing the First 10 Years of ERISA," are available outside, and we will have a printed transcript of today's proceeding available in approximately 2 months. That will be mailed to you if you have registered with us.

Thank you again.

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